

1 HB466
2 209796-1
3 By Representative England
4 RFD: Boards, Agencies and Commissions
5 First Read: 25-FEB-21

SYNOPSIS: Under existing law, the Alabama Bail Bond Regulatory Act authorizes the Alabama Professional Bail Bonding Board to license professional bail bondsmen, professional bail companies, professional surety bondsmen, professional surety companies, and recovery agents.

This bill would provide further for definitions and the qualifications of members appointed to the board.

This bill would authorize the board to issue apprentice licenses to certain qualified applicants, would authorize the board to employ legal counsel, would further prohibit unlicensed practice and provide criminal penalties for violations; and would require the successful completion of certain education before regular licensure.

This bill would limit the maximum amount of fees the board, by rule, may establish and charge.

1 This bill would also clarify that
2 application and renewal fees apply to all licensees
3 of the board.

4 Amendment 621 of the Constitution of Alabama
5 of 1901, as amended by Amendment 890, now appearing
6 as Section 111.05 of the Official Recompilation of
7 the Constitution of Alabama of 1901, prohibits a
8 general law whose purpose or effect would be to
9 require a new or increased expenditure of local
10 funds from becoming effective with regard to a
11 local governmental entity without enactment by a
12 2/3 vote unless: it comes within one of a number of
13 specified exceptions; it is approved by the
14 affected entity; or the Legislature appropriates
15 funds, or provides a local source of revenue, to
16 the entity for the purpose.

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

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

1
2 Relating to the Alabama Bail Bond Regulatory Act; to
3 amend Sections 15-13-201, 15-13-202, 15-13-203, 15-13-206,
4 15-13-207, 15-13-209, 15-13-210, 15-13-211, 15-13-214, and
5 15-13-217, as added to the Code of Alabama 1975 by Act
6 2019-409, 2019 Regular Session, to provide further for
7 definitions; to provide further for the qualifications of
8 members appointed to the board; to authorize the board to
9 issue apprentice licenses to certain qualified applicants; to
10 authorize the board to employ legal counsel; to further
11 prohibit unlicensed practice and provide criminal penalties
12 for violations; to require an applicant to successfully
13 complete certain education before licensure; to limit the
14 maximum amount of fees the board, by rule, may establish and
15 charge; and to clarify that application and renewal fees apply
16 to professional bail bondsmen, professional bail companies,
17 professional surety bondsmen, professional surety companies,
18 and recovery agents; and in connection therewith would have as
19 its purpose or effect the requirement of a new or increased
20 expenditure of local funds within the meaning of Amendment
21 621, of the Constitution of Alabama of 1901, as amended by
22 Amendment 890, now appearing as Section 111.05 of the Official
23 Recompilation of the Constitution of Alabama of 1901, as
24 amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 15-13-201, 15-13-202, 15-13-203,
27 15-13-206, 15-13-207, 15-13-209, 15-13-210, 15-13-211,

1 15-13-214, and 15-13-217, as added to the Code of Alabama 1975
2 by Act 2019-409, 2019 Regular Session, are amended to read as
3 follows:

4 "§15-13-201.

5 "For the purposes of this article, the following
6 terms shall have the following meanings:

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

8 "(2) PROFESSIONAL BAIL COMPANY. A person, individual
9 proprietor, partnership corporation, or other entity, other
10 than a professional surety company, that furnishes bail or
11 becomes surety for a person on an appearance bond and does so
12 for a valuable consideration.

13 "~~(2)~~ (3) PROFESSIONAL BONDSMAN. Any individual, or
14 agent, who is employed by a professional bail company or
15 professional surety company to solicit and execute appearance
16 bonds or actively seek bail bond business for or on behalf of
17 a professional bail company, including any individual who has
18 a direct or indirect ownership interest in a professional bail
19 company.

20 "~~(3)~~ (4) PROFESSIONAL SURETY BONDSMAN. Any individual
21 who is employed by a professional surety company to solicit
22 and execute appearance bonds or actively seek bail bond
23 business for or on behalf of a professional surety company,
24 including any individual who has a direct or indirect
25 ownership interest in a professional surety company.

26 "(5) PROFESSIONAL SURETY COMPANY. An insurance
27 company, domestic or foreign corporation, or association

1 engaged in the business of insurance, or a surety with a bail
2 line of insurance to which has been issued a certificate of
3 authority or certificate of compliance by the state Department
4 of Insurance to execute appearance bonds or bail bonds in
5 criminal cases in the state.

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

12 "§15-13-202.

13 "An individual may not hold himself or herself out
14 to the public as a professional bondsman or a professional
15 surety bondsman, operate as a recovery agent, or use any term,
16 title, or abbreviation that expresses, infers, or implies that
17 the individual is licensed as a professional bondsman unless
18 the individual at the time holds a valid license as a
19 professional bondsman as provided in this article. All
20 applicants shall pass an examination, unless exempted by this
21 article, based on criteria established by the Alabama
22 Professional Bail Bonding Board and established under Section
23 15-13-203 and shall comply with the continuing education
24 requirements established by this article. The board may issue
25 an apprentice license, which expires 120 days after issuance,
26 to any applicant who satisfies all criteria for licensure

1 except passing the examination. The board may charge a fee,
2 not exceeding fifty dollars (\$50), for an apprentice license.

3 "§15-13-203.

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

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

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

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

7 "(b) The appointments to the board shall be for
8 terms of four years. The nominating and appointing authorities
9 shall coordinate their nominations and appointments so that
10 diversity of gender, race, and geographical areas is
11 reflective of the makeup of this state. Vacancies shall be
12 filled by appointment of the Governor for the unexpired
13 portion of the term.

14 "(c) The board, pursuant to the Alabama
15 Administrative Procedure Act, Chapter 22 of Title 41, shall
16 adopt and enforce reasonable rules as the board determines
17 necessary to effectively and efficiently carry out its
18 official duty of licensing and regulating professional bail
19 bond companies and professional bondsmen.

20 "(d) Each member of the board shall receive travel
21 and per diem compensation for expenses incurred in the conduct
22 of official duties while attending meetings and transacting
23 the business of the board, in accordance with applicable state
24 travel and per diem paid to state employees. The compensation
25 of members shall be paid from funds available to the board in
26 the same manner as other expenses are paid.

27 "§15-13-206.

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

4 "(b) All application, apprentice, and license fees,
5 penalties, fines, late fees, and any other fees or funds
6 collected by the board under this article are to be deposited
7 in this fund and used only to carry out the operations of the
8 board.

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

21 "§15-13-207.

22 "(a) The Alabama Professional Bail Bonding Board may
23 adopt rules necessary to implement this article and accomplish
24 its objectives subject to the Alabama Administrative Procedure
25 Act.

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

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

6 "(d) The Attorney General shall provide legal
7 services to the board and its employees in connection with
8 official duties and actions of the board or the board may
9 employ legal counsel, when deemed necessary by the board,
10 whose compensation shall be fixed by the board and paid in the
11 same manner as the per diem and expenses of the board members
12 are paid.

13 "§15-13-209.

14 "(a) Except as otherwise provided in this article,
15 it shall be unlawful for any individual to act as a
16 professional bondsman or recovery agent, or transact business
17 as either, without first obtaining a license from the board,
18 but a professional surety bondsman shall obtain a license from
19 the Department of Insurance and shall comply with all
20 licensing requirements issued by the Department of Insurance.

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

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

4 "§15-13-210.

5 "(a) An application and all information on an
6 application for licensure ~~as a professional bondsman~~ pursuant
7 to this article shall be treated as confidential and shall be
8 filed with the board on forms prescribed by the board. The
9 application shall include all of the following information of
10 the applicant:

11 "(1) His or her full name.

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

13 "(3) All residences during the immediate past five
14 years.

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

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

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

23 "§15-13-211.

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

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

1 "(2) Has not been declared by any court of competent
2 jurisdiction incompetent by reason of mental defect or disease
3 unless a court of competent jurisdiction has subsequently
4 declared the applicant competent.

5 "(3) Has not been convicted of a crime of moral
6 turpitude, with the board having the final determination on
7 the interpretation of moral turpitude.

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

9 "(5) Has successfully completed pre-licensure
10 education administered by an educational provider approved by
11 the board.

12 "§15-13-214.

13 "Making a false statement to the board shall be
14 punishable by a civil penalty not to exceed one thousand
15 dollars (\$1,000) and assessment of the maximum application fee
16 as provided in Section 15-13-217.

17 "§15-13-217.

18 "(a) A professional bondsman, professional surety
19 bondsman, or recovery agent commencing business in any
20 judicial circuit in this state on and after June 1, 2020,
21 shall attend a ~~12-hour~~ 16-hour instructional course conducted
22 by an educational provider approved by the board and pass an
23 examination approved by the board and administered by an
24 educational provider approved by the board. Upon completion of
25 the course and passage of the examination, the individual
26 shall be awarded an ~~initial~~ pre-licensure examination
27 certificate by the board, copies of which may be submitted to

1 the presiding circuit judge, or other judicial authority,
2 along with the other requirements set forth in Section
3 15-13-159 or Section 15-13-160. Those professional bondsmen,
4 professional surety bondsmen, and recovery agents doing
5 business immediately prior to June 1, 2020, are exempt from
6 the initial ~~12-hour~~ instructional course and examination.

7 "(b) Unless exempted pursuant to subsection (i), a
8 professional bondsman, professional surety bondsman, or
9 recovery agent making an annual filing in any circuit in this
10 state pursuant to Section 15-13-159 or Section 15-13-160 on
11 and after March 1, 2020, shall first complete eight hours of
12 continuing education conducted by an educational provider
13 approved by the board. A professional bail company owner, who
14 is 55 years of age and has 10 years of experience in the
15 profession, shall only be required to complete four hours of
16 continuing education. The educational provider approved by the
17 board shall provide the board with the name of all
18 professional bondsmen, professional surety bondsmen, or
19 recovery agents completing eight hours of continuing
20 education. Upon completion of the eight hours of continuing
21 education, the individual shall request issuance of an annual
22 continuing education certificate from the board, copies of
23 which may be submitted to the presiding circuit judge along
24 with the other requirements set forth in Section 15-13-159 or
25 Section 15-13-160.

26 "(c) The ~~12-hour~~ instructional course, examination,
27 or continuing education courses shall be taught or sponsored

1 by an educational provider approved by the board, which must
2 apply annually for authority to offer such examination or
3 courses.

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

6 "(e) The cost of the ~~12-hour~~ instructional course
7 shall be set by the approved course provider but shall not
8 exceed five hundred dollars (\$500) per course. Upon completion
9 of the ~~12-hour~~ instructional course, the approved course
10 provider shall issue ~~a 12-hour~~ an instructional course
11 completion certificate in a form approved by the board. This
12 completion certificate, along with the application fee, must
13 be presented to the board in order to take the ~~introductory~~
14 pre-licensure examination. ~~A 12-hour~~ An instructional course
15 completion certificate shall be valid for a period of 12
16 months.

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

23 "(g) Each professional bondsman, professional surety
24 bondsman, and recovery agent must renew his or her
25 certification with the board by completing ~~the~~ eight hours of
26 approved continuing education prior to ~~November 1~~ September 30
27 each year. Late renewal within the next 12 months may be had

1 by completing the eight hours of continuing education and
2 paying a renewal license fee of twice the amount otherwise
3 required. If a professional bondsman, professional surety
4 bondsman, or recovery agent fails to renew a certification for
5 a 12-month period, the professional bondsman, professional
6 surety bondsman, or recovery agent will be required to take
7 the ~~initial 12-hour~~ instructional course and examination to
8 again become certified.

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

12 "(1) ~~Examination~~ a. Application fee for a
13 professional bondsman, professional surety bondsman, or a
14 recovery agent, a nonrefundable fee to be paid to take the
15 examination and for the issuance of the ~~initial~~ pre-licensure
16 examination certificate, per examination attempt: ~~One hundred~~
17 ~~twenty-five dollars (\$125)~~ Up to five hundred dollars (\$500).

18 "b. Application fee for a professional bail company
19 or a professional surety company, a nonrefundable fee to be
20 paid for the issuance of an initial license: Up to five
21 hundred dollars (\$500). Payment of this fee does not alleviate
22 the requirement that each individual professional bondsman,
23 professional surety bondsman, and recovery agent be licensed
24 under this chapter.

25 "(2) a. Annual ~~continuing education renewal~~
26 ~~certificate~~ license renewal fee for a professional bondsman,
27 professional surety bondsman, or recovery agent, to be paid to

1 receive the annual continuing education certificate: ~~Fifty~~
2 From fifty dollars (\$50) up to five hundred dollars (\$500).

3 "b. Annual license renewal fee for a professional
4 bail company or a professional surety company, to be paid to
5 receive the renewal license: One hundred dollars (\$100).

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

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

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

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