

1 SB236
2 156532-2
3 By Senators Waggoner, Scofield, Keahey, Blackwell, Smitherman,
4 Whatley, Bussman and Bedford
5 RFD: Judiciary
6 First Read: 21-JAN-14

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8 SYNOPSIS: Under existing law, bail bondsmen are
9 required to be approved as either a professional
10 surety company or professional bail company by the
11 Department of Insurance and be approved by the
12 presiding circuit judge of each county in which
13 they desire to operate.

14 This bill would require professional
15 bondsmen and recovery agents to attend a 20-hour
16 instructional course and pass an examination
17 developed and administered by the Department of
18 Insurance, would also require professional bondsmen
19 and recovery agents to complete 12 hours of
20 continuing education each year, and would require
21 certificates of examination or continuing education
22 issued by the Department of Insurance to be filed
23 with the presiding circuit judge.

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

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2 To amend Sections 15-13-159 and 15-13-160, Code of
3 Alabama 1975, relating to professional bondsmen; to require
4 under certain conditions certificates of examination or
5 continuing education issued by the Department of Revenue to be
6 filed with the presiding circuit judge prior to the judge's
7 issuance or renewal of an order authorizing a professional
8 surety company to become a surety on bail; to add Section
9 15-13-160.1 to the Code of Alabama 1975, to require
10 professional bondsmen and recovery agents to complete an
11 initial instructional course and pass an examination prior to
12 serving as a professional bondsman or recovery agent; to
13 require continuing education; and to provide for fees.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 15-13-159 and 15-13-160, Code of
16 Alabama 1975, are amended to read as follows:

17 "§15-13-159.

18 "(a) No professional surety company shall execute or
19 become surety on any appearance bond in this state, unless it
20 has an order granting authorization to become professional
21 surety on any bail. The order granting the authorization shall
22 be reissued annually, prior to January 1 of each year, by the
23 presiding circuit judge of the county in which the company
24 desires to execute bail or appearance bonds.

25 "(b) Prior to the judge's issuance of the original
26 order and no later than December 1 of each year, thereafter,

1 professional surety companies shall submit annually to the
2 presiding circuit judge the following:

3 "(1) To the extent required by Section 15-13-160.1,
4 a copy of the initial examination certificate or an annual
5 continuing education certificate issued by the Department of
6 Insurance for every professional bondsman or recovery agent to
7 be utilized by the professional surety company indicating
8 compliance with Section 15-13-160.1.

9 ~~"(1)~~ (2) An original or certified copy of a
10 certificate of authority or certificate of compliance from the
11 Department of Insurance reflecting that the company is
12 qualified to write a bail line of insurance and that the
13 company is in good standing with the department.

14 ~~"(2)~~ (3) An original qualifying power of attorney
15 issued by the professional surety company, specifying any
16 applicable limitations and the names of the agents that may
17 execute and bind the company to a bail undertaking. The
18 qualifying power of attorney shall not name any company,
19 corporation, or other entity as an agent except a person as
20 defined as a professional bondsman in Division 1, Section
21 15-13-100 of this chapter, and that person shall be an agent
22 of the company licensed with the Department of Insurance.

23 ~~"(3)~~ (4) A copy of the license issued by the
24 Department of Insurance of each agent who is named in or
25 appointed by the qualifying power of attorney in subdivision
26 ~~(2)~~ (3) or a letter or other documentation from the department
27 indicating that the ~~appointed~~ agents are ~~temporarily~~ licensed

1 as ~~agents of~~ insurance producers and appointed to represent
2 the insurance company to be utilized by the professional
3 surety company for those lines of insurance.

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

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

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

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

1 felony or a crime involving moral turpitude, then the
2 affidavit or certification shall certify that there has been
3 such conviction, providing the name of the person convicted,
4 and certify that the person convicted has been pardoned or has
5 had a restoration of civil rights.

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

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

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

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

5 "§15-13-160.

6 "(a) No professional bail 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 authorization shall be
10 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.

13 "(b) Prior to the judge's issuance of the original
14 order and no later than December 1 of each year, thereafter,
15 professional bail companies shall submit annually to the
16 presiding circuit judge the following:

17 "(1) To the extent required by Section 15-13-160.1,
18 a copy of the initial examination certificate or an annual
19 continuing education certificate issued by the Department of
20 Insurance for every professional bondsman or recovery agent to
21 be utilized by the professional bail company indicating
22 compliance with Section 15-13-160.1.

23 "~~(1)~~(2) An original corporate surety bond or escrow
24 agreement, filed and approved by the presiding circuit judge
25 of the county in which the professional bail company executes
26 or becomes surety on appearance bonds, in the amount of
27 \$25,000, guaranteeing the payment of all sums of money that

1 may become due by virtue of any judgment absolute that may be
2 rendered against the professional bail company on a forfeiture
3 entered by any court in the county. Corporate surety bonds
4 shall be executed only by a surety company authorized to do
5 business in the State of Alabama and qualified to write bonds
6 by the Department of Insurance. The corporate surety bond
7 shall provide that it may be cancelled as to any future
8 liability by the corporate surety company or the professional
9 bail company giving 30 days prior written notice of the
10 cancellation to the clerk of the circuit court in which the
11 bond or instrument was filed. A bank in the State of Alabama
12 shall be a party to all escrow agreements, and those
13 agreements shall provide that the agreement may be cancelled
14 as to any future liability only by the professional bail
15 company and bank giving 30 days prior written notice of the
16 cancellation to the clerk of the circuit court in which the
17 escrow agreement or instrument is filed. Once a professional
18 bail company has filed an original continuous corporate surety
19 bond or escrow agreement with the circuit clerk and it has
20 been approved by the presiding circuit judge, then the
21 professional bail company does not have to file any other
22 original continuous corporate surety bond or escrow agreement
23 upon annual recertification. The professional bail company
24 shall submit an original certificate from the insurance
25 company which executed the corporate surety bond reflecting
26 that it is still in force or an original letter from the bank
27 stating the escrow agreement is still effective and the moneys

1 are still held in trust. When any professional bail company is
2 annually recertifying, the circuit clerk shall send the
3 original corporate surety bond or original escrow agreement
4 with any cancellations received by the circuit clerk to the
5 presiding circuit judge for review and approval.

6 ~~"(2)(3)~~ An original qualifying power of attorney,
7 letter, or other document issued by the professional bail
8 company specifying any applicable limitations and specifying
9 the agents who are authorized to execute and bind the
10 professional bail company to a bail undertaking or to
11 appearance bonds. The qualifying power of attorney, letter, or
12 other document may only name persons as agents.

13 ~~"(3)(4)~~ An original affidavit or certificate in
14 writing, under oath, executed by an owner or officer of a
15 professional bail company, to the clerk of the circuit court
16 of the county in which the professional bail company shall
17 execute or become surety on appearance bonds which contains
18 the following:

19 "a. That all appearance bonds shall be executed in
20 the name of the professional bail company as surety by the
21 agents listed or appointed in the qualifying power of
22 attorney, letter, or other document presented to the court or
23 any other person so named in any future qualifying powers of
24 attorney, letters, or documents filed with the circuit clerk
25 of the county.

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

1 "c. That the professional bail company has
2 sufficient financial net worth to satisfy its obligations as a
3 surety.

4 "d. That no person having a direct or indirect
5 financial interest in the professional bail company has been
6 convicted of a felony or a crime involving moral turpitude.
7 Notwithstanding the foregoing, if any person having a direct
8 or indirect financial interest in the bonding business has
9 been convicted of a felony or a crime involving moral
10 turpitude, then the person making the certification shall
11 certify that there has been a conviction, provide the name of
12 the person convicted, and certify that the person convicted
13 has been pardoned or has had a restoration of civil rights.

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

19 "f. That there are no persons, including employees,
20 agents, or persons with a financial interest in the
21 professional bail company, who, within a period of two years,
22 violated this chapter, or any rules adopted by the Supreme
23 Court governing the qualifications of professional surety or
24 bail companies.

25 "g. That no employee, agent, or any other person
26 having a direct or indirect financial interest in the
27 professional bail company is an attorney, a judicial official,

1 a person authorized to accept an appearance bond, or an agent
2 of an attorney, judicial official, or person authorized to
3 accept an appearance bond.

4 "h. The names and addresses of all officers,
5 employees, and agents of the professional bail company who
6 have a direct or indirect financial interest in the
7 professional bail company and the nature and extent of each
8 interest."

9 Section 2. Section 15-13-160.1 is added to the Code
10 of Alabama 1975, to read as follows:

11 §15-13-160.1.

12 (a) For purposes of this section, the following
13 words have the following meanings:

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

22 (2) RECOVERY AGENT. Any individual, other than an
23 attorney or law enforcement officer, utilized by a
24 professional surety company, professional bail company, or
25 professional bondsman to apprehend a defendant who was
26 released on bail and who failed to appear in court when
27 required.

1 (b) (1) A professional bondsman or recovery agent
2 commencing business in any circuit in this state on and after
3 February 1, 2015, shall attend a 20-hour instructional course
4 conducted by the Alabama Bail Agents Association, or a
5 provider approved by the Department of Insurance, and pass an
6 examination developed and administered by the Department of
7 Insurance. Upon completion of the course and passage of the
8 examination, the person shall be awarded an initial
9 examination certificate by the Department of Insurance, copies
10 of which may be submitted to the presiding circuit judge along
11 with the other requirements set forth in Section 15-13-159 or
12 15-13-160. Those professional bondsmen and recovery agents
13 doing business immediately prior to February 1, 2015, are
14 exempted from the initial 20-hour course and examination. All
15 insurance producers duly licensed for the bail bond line of
16 authority by having taken the 20-hour insurance course and
17 passing the bail bond examination shall be deemed to have met
18 the requirements of this subsection. The Commissioner of
19 Insurance shall establish the requirements for meeting those
20 exemptions and may provide for limitations on repeating failed
21 examinations.

22 (2) A professional bondsman or recovery agent making
23 an annual filing in any circuit in this state pursuant to
24 Section 15-13-159 or 15-13-160 on and after June 1, 2014,
25 shall first complete 12 hours of continuing education
26 conducted by the Alabama Bail Agents Association, or a
27 provider approved by the Department of Insurance. The Alabama

1 Bail Agents Association shall provide the Department of
2 Insurance with the name of all professional bondsmen or
3 recovery agents completing 12 hours of continuing education.
4 Upon completion of the 12 hours of continuing education, the
5 person shall request issuance of an annual continuing
6 education certificate from the Department of Insurance, copies
7 of which may be submitted to the presiding circuit judge along
8 with the other requirements set forth in Section 15-13-159 or
9 15-13-160.

10 (3) The instructional course and continuing
11 education courses shall be taught or sponsored by the Alabama
12 Bail Agents Association, or an educational institution
13 approved by the Department of Insurance and the Alabama Bail
14 Agents Association which must apply annually for authority to
15 offer courses.

16 (4) A list of approved course providers will be
17 published on the Department of Insurance website.

18 (c) (1) The cost of the 20-hour course shall be set
19 by the approved course provider, but shall not exceed five
20 hundred dollars (\$500) per course. Upon completion of the
21 20-hour course, the approved course provider shall issue a
22 20-hour course completion certificate in a form approved by
23 the Department of Insurance. This completion certificate must
24 be presented to the examination administrator for the
25 Department of Insurance in order to take the introductory
26 examination. A course completion certificate shall be valid
27 for a period of 12 months.

1 (2) The cost of continuing education courses shall
2 be set by the approved course provider, but shall not exceed
3 seventy-five dollars (\$75) per hour.

4 (3) Any fee required to be paid by a course provider
5 for reporting continuing education course completion to the
6 Department of Insurance may be added to the maximum charges
7 provided in subsection (e).

8 (d)(1) Each professional bondsman and recovery agent
9 must renew his or her certification with the Department of
10 Insurance by completing the 12 hours of approved continuing
11 education and paying a renewal fee prior to December 31 each
12 year. Late renewal within the next 12 months may be had by
13 completing the 12 hours of continuing education and paying a
14 renewal fee of twice the amount otherwise required. If a
15 professional bondsman or recovery agent fails to renew a
16 certification for a 12-month period, the professional bondsman
17 or recovery agent shall take the initial 20-hour course and
18 examination to again become certified.

19 (e)(1) The Commissioner of Insurance shall set fees
20 to be paid to the Department of Insurance in the
21 administration of this section, which fees may not exceed the
22 maximum amounts set forth below:

23 a. Examination fee, a nonrefundable fee to be paid
24 to take the examination and for the issuance of the initial
25 examination certificate, per examination attempt _____ one
26 hundred twenty-five dollars (\$125)

1 b. Annual continuing education renewal certificate
2 fee, to be paid to receive the annual continuing education
3 certificate _____ fifty dollars (\$50)

4 c. Course provider authority initial filing fee, to
5 be paid by each course provider for initial authority to offer
6 the 20-hour course and continuing education courses _____
7 three hundred dollars (\$300)

8 d. Course provider annual renewal fee, to be paid by
9 each course provider for continuation of authority to offer
10 the 20-hour course and continuing education courses _____ one
11 hundred dollars (\$100)

12 e. Course approval filing fee, to be paid by the
13 course provider for the approval of each 20-hour course and
14 each 12-hour course to be offered _____ fifty dollars (\$50)

15 (2) All fees collected by the department pursuant to
16 this section shall be deposited into the State Treasury to the
17 credit of the Insurance Department Fund.

18 (3) The commissioner may make arrangements,
19 including contracting with an outside testing service, for
20 administering the examination, in which case the nonrefundable
21 fee may be assigned and paid directly to the testing service.

22 (4) The commissioner may adopt reasonable rules
23 necessary for the implementation of this section pursuant to
24 Section 27-2-17.

25 Section 3. This act shall become effective on June
26 1, 2014, following its passage and approval by the Governor,
27 or its otherwise becoming law.

