

1 SB361  
2 150632-3  
3 By Senators Holley and Smith  
4 RFD: Governmental Affairs  
5 First Read: 14-MAR-13

SB361

ENROLLED, An Act,

Relating to bail bond fees; to amend Section 2 of Act 2012-535, now appearing as Section 12-14-31 and Section 12-19-311 Code of Alabama 1975; to provide further for what acts constitute the same incident in cases where there are multiple charges; to extend the time in which the official executing the bond or the clerk of the court has to collect the bail bond fee; to authorize an additional contempt penalty in the municipal court for failure to pay the bail bond fee; and to repeal the expiration date of the bail bond fee.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 2 of Act 2012-535, now appearing as Section 12-14-31 and Section 12-19-311, of the Code of Alabama 1975, are amended to read as follows:

"§12-14-31.

"(a) A municipal judge may administer oaths, compel the attendance of witnesses and compel the production of books and papers, punish by fine not exceeding \$50.00 and/or imprisonment not exceeding five days any person found and adjudged to be in contempt of court and shall have power coextensive with the jurisdiction of the district court to issue writs and other process and to approve and declare bonds

1       forfeited. In contempt of court cases brought pursuant to  
2       Section 12-19-311(c) and (d), a municipal judge may punish by  
3       a fine not exceeding five hundred dollars (\$500).

4               "(b) The municipal judge or, when there is more than  
5       one judge in the municipality, the presiding judge shall  
6       designate any other municipal officers who shall be authorized  
7       to approve appearance and appeal bonds.

8               "§12-19-311.

9               "(a) (1) In addition to all other charges, costs,  
10       taxes, or fees levied by law on bail bonds, additional fees as  
11       detailed in paragraph a. and paragraph b. shall be imposed on  
12       every bail bond in all courts of this state.

13               "The fee shall not be assessed in traffic cases,  
14       except for those serious traffic offenses enumerated in Title  
15       32, Chapter 5A, Article 9. Where multiple charges arise out of  
16       the same incident, the bond fee pursuant to this section shall  
17       only be assessed on one charge. For the purposes of this  
18       section, the term "same incident" shall be defined as the same  
19       date, location, and proximate time. Where the charge is  
20       negotiating a worthless negotiable instrument, the fee shall  
21       not be assessed more than three times annually per person  
22       charged. The fees shall be assessed as follows:

23               "a. A filing fee in the amount of thirty-five  
24       dollars (\$35) on each bond executed.

1            "b. For a misdemeanor offense, a bail bond fee in  
2            the amount of 3.5 percent of the total face value of the bail  
3            bond or one hundred dollars (\$100), whichever is greater, but  
4            not to exceed four hundred fifty dollars (\$450). For a felony  
5            offense, a bail bond fee of 3.5 percent of the total face  
6            value of the bail bond or one hundred fifty dollars (\$150),  
7            whichever is greater, but not to exceed seven hundred fifty  
8            dollars (\$750). Except that if a person is released on a  
9            judicial public bail, recognizance, or signature bond,  
10           including a bond on electronic traffic and nontraffic  
11           citations, the fee shall be affixed at twenty-five dollars  
12           (\$25). For purposes of this section, face value of bond shall  
13           mean the bond amount set by court or other authority at  
14           release, not the amount posted at release on bail.

15           "(2) The fees assessed pursuant to paragraph a. of  
16           subdivision (1) of subsection (a) are required whether the  
17           release from confinement or admittance to bail is based on  
18           cash, judicial public bail, personal recognizance, a signature  
19           bond, including a bond on electronic traffic and nontraffic  
20           citations for those serious traffic offenses enumerated in  
21           Title 32, Chapter 5A, Article 9, an appearance bond, a secured  
22           appearance bond utilizing security, a bond executed by a  
23           professional surety company, or a professional bail company  
24           using professional bondsmen; provided, however that no fee  
25           shall be assessed pursuant to paragraph a. of subdivision (1)

1 of subsection (a) if a person is released on judicial public  
2 bail or on personal recognizance for a documented medical  
3 reason. The fee shall be assessed at the issuance, reissuance,  
4 or reinstatement of the bond.

5 "(b) The fee in paragraph a. of subdivision (1) of  
6 subsection (a) shall be collected by either the official  
7 executing the bond or by the clerk of the court. If the fee is  
8 collected by the official executing the bond, it shall be  
9 collected at the execution of the bond or at the time of  
10 release. If the fee is collected by the clerk of the court, it  
11 shall be collected at the execution of the bond, at the time  
12 of release, or within two business days of release. The fee  
13 may be remitted via money order, electronic means, U.S. mail  
14 to the court clerk postmarked within 48 hours of release, or  
15 by any other method approved by the sheriff. If the fee is  
16 collected by an official other than the clerk of the court,  
17 the official shall remit the fee to the clerk of the court,  
18 attached to the executed bond, within 30 days or upon  
19 adjudication or conviction of the underlying offense,  
20 whichever occurs first; if the fee is not collected by the  
21 official, the official shall provide documentation of the  
22 nonpayment, attached to the executed bond, to the clerk of the  
23 court within two business days. The clerk of the court may  
24 accept the payment of the fee if the clerk has the executed  
25 bond, together with proof of nonpayment and charging

1 instrument, in hand. This fee shall be paid by the bondsman,  
2 surety, guaranty, or person signing as surety for the  
3 undertaking of bail. If the person is released on own  
4 recognizance, judicial public bail, or non-custodial offense  
5 pursuant to Rule 20 of the Alabama Rules of Judicial  
6 Administration, the fee shall be assessed at the time of  
7 adjudication or at the time that any other fees and costs are  
8 assessed.

9 "(c) Upon the failure to pay the fee in paragraph a.  
10 of subdivision (1) of subsection (a) and upon a finding of  
11 contempt in subsection (d), the bondsman, surety, guaranty, or  
12 individuals required to pay the fee shall be punished by a  
13 fine of not less than five hundred dollars (\$500) in addition  
14 to the fee imposed in paragraph a. of subdivision (1) of  
15 subsection (a). The fine shall not be remitted, waived, or  
16 reduced unless the person(s) fined can show cause to the court  
17 that he or she cannot pay the fine in the reasonably  
18 foreseeable future. In addition, upon a finding of contempt,  
19 if the responsible party is a professional surety company or a  
20 professional bail company or otherwise operating as a bondsman  
21 under Alabama law, the presiding judge may revoke the entity  
22 or individual's authority to write or issue bonds pursuant to  
23 Section 15-13-159 or 15-13-160 until such time as the payment  
24 is rendered in full.

1           "(d) If the fee in paragraph a. of subdivision (1)  
2 of subsection (a) is not paid in full within 30 days, the  
3 clerk of the court shall provide notification of the  
4 delinquency to the district attorney or prosecuting attorney  
5 ~~within two days of the clerk's entry of the case or if the~~  
6 ~~case is pending then within two days of the receipt of the~~  
7 ~~executed bond on a monthly basis~~. Upon receipt of the  
8 certification of delinquency or failure to pay from the court,  
9 the district attorney or prosecuting attorney may take  
10 appropriate action which may include, but shall not be limited  
11 to, contempt proceedings. If contempt proceedings are  
12 initiated the district attorney or prosecuting attorney shall  
13 send notice by U.S. Mail to the last known address of the  
14 person charged with the crime, bondsman, surety, guaranty, or  
15 person signing as surety for the undertaking of bail of the  
16 failure to pay and provide them 10 days to remit payment in  
17 full pursuant to this section. If the surety is the person  
18 charged with the crime where the fee applies, the district  
19 attorney or prosecuting attorney may file a petition for  
20 contempt and the court shall set the contempt hearing on the  
21 person's next regularly scheduled court appearance. If the  
22 surety is not the person charged with the crime the district  
23 attorney or prosecuting attorney may file a petition for  
24 contempt with the court, which may, after hearing, find the  
25 bondsman, surety, guaranty or person signing as surety the

1       undertaking of bail in contempt. The municipal court clerk  
2       shall provide a list to the prosecuting attorney and district  
3       attorney every 60 days that shall include, but not be limited  
4       to, the name of every person who has failed to pay the fee,  
5       the municipal case number, and the name of the person signing  
6       as surety for the undertaking bail. If the prosecuting  
7       authority of the municipality does not initiate contempt  
8       proceedings pursuant to this section within 30 days of  
9       receiving notice from the clerk of the court, the district  
10      attorney with jurisdiction may file the contempt petition in  
11      the municipal court. If the district attorney initiates  
12      contempt proceedings in a municipal case and the person is  
13      found in contempt, the fine shall be distributed as follows:  
14      50% to the general fund of the municipality and 50% to the  
15      district attorney Solicitor's Fund.

16               "(e) (1) The fee imposed on bail bonds under  
17      paragraph b. of subdivision (1) of subsection (a) shall be  
18      assessed to the defendant and be imposed by the court when the  
19      defendant appears in court for adjudication or sentencing.

20               "(2) Notwithstanding (e) (1), if the bail bond has  
21      been secured by cash, the conditions of release have been  
22      performed, and the defendant has been discharged from all  
23      obligations of the bond, or if the cash bail bond is forfeited  
24      the clerk of the court shall, unless otherwise ordered by the  
25      court, retain as the bail bond fee the amount pursuant to



1 paragraph b. of subdivision (1) of subsection (a) and disburse  
2 the remainder as provided by law.

3 "(3) Notwithstanding (e)(1), if the property bail  
4 bond has been secured, the conditions of release have been  
5 performed and the defendant has been discharged or released  
6 from all obligations of the bond, or if the property bail bond  
7 is forfeited, then the bond shall be reduced to the bail bond  
8 fee amount pursuant to paragraph b. of subdivision (1) of  
9 subsection (a) and the property shall not be discharged or  
10 released by the court until the bail bond fee pursuant to  
11 paragraph b. of subdivision (1) of subsection (a) has been  
12 paid in full.

13 "(4) The fees shall be collected pursuant to  
14 paragraph b. of subdivision (1) of subsection (a) by the clerk  
15 of the court. The fees pursuant to this section shall not be  
16 remitted, waived, or reduced unless the defendant proves to  
17 the reasonable satisfaction of the sentencing judge that the  
18 defendant is not capable of paying the same within the  
19 reasonably foreseeable future. The fees pursuant to this  
20 section shall not be remitted, waived, or reduced unless all  
21 other costs, fees, and charges of court are remitted or  
22 waived.

23 "(5) The fees shall not reduce or affect the funds  
24 allocated to the office of the court clerk, the sheriff, the  
25 municipality, the district attorney, or the Alabama Department

1 of Forensic Sciences under any local act or other funding  
2 mechanism under the law. These funds shall be in addition to  
3 and not in lieu of any funds currently available to the office  
4 of the court clerk, sheriff, municipality, the district  
5 attorney, and the Alabama Department of Forensic Sciences.

6 "(f) The court clerks shall distribute on a monthly  
7 basis as other fees are distributed, the fees collected  
8 pursuant to paragraph a. of subdivision (1) of subsection (a)  
9 as follows: Ten percent from each fee shall be distributed  
10 either to the county general fund to be earmarked and  
11 distributed to the Sheriff's Fund, administered by the  
12 sheriff, in the county where the bond was executed or, where  
13 the bond is executed by the municipality, to the municipality;  
14 45 percent of the fee to the court clerk's fund where the bond  
15 was executed or where the bond is executed by the municipal  
16 court, to the municipality; 45 percent of the fee to the  
17 Solicitor's Fund in the county where the bond was executed.  
18 The bail bond fee records shall be audited by the Department  
19 of Examiners of Public Accounts.

20 "(g) The court clerks shall distribute on a monthly  
21 basis as other fees are distributed, the fees collected  
22 pursuant to paragraph b. of subdivision (1) of subsection (a)  
23 as follows: Twenty-one dollars and fifty cents (\$21.50) from  
24 each fee shall be distributed to the county general fund which  
25 shall be earmarked and distributed to the Sheriff's Fund,

1       administered by the sheriff, in the county where the bond was  
2       executed or, where the bond was executed by a municipality, to  
3       the municipality; 40 percent of the remainder of the fee to  
4       the court clerk's fund where the bond was executed or where  
5       the bond is executed by the municipal court, to the  
6       municipality; 45 percent of the remainder of the fee to the  
7       Solicitor's Fund in the county where the bond was executed;  
8       five percent to the State General Fund and ten percent to the  
9       Alabama Forensic Services Trust Fund. The bail bond fee  
10      records shall be audited by the Department of Examiners of  
11      Public Accounts."

12               Section 2. Section 7 of Act 2012-535 is repealed.

13               Section 3. This act shall become effective  
14      immediately following its passage and approval by the  
15      Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB361

Senate 10-APR-13

I hereby certify that the within Act originated in and passed  
the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 07-MAY-13

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By: Senator Holley