

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

1 SB361

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to bail bond fees; to amend Section 2 of
12 Act 2012-535, now appearing as Section 12-14-31 and Section
13 12-19-311 Code of Alabama 1975; to provide further for what
14 acts constitute the same incident in cases where there are
15 multiple charges; to extend the time in which the official
16 executing the bond or the clerk of the court has to collect
17 the bail bond fee; to authorize an additional contempt penalty
18 in the municipal court for failure to pay the bail bond fee;
19 and to repeal the expiration date of the bail bond fee.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

24 "§12-14-31.

25 "(a) A municipal judge may administer oaths, compel
26 the attendance of witnesses and compel the production of books
27 and papers, punish by fine not exceeding \$50.00 and/or

1 imprisonment not exceeding five days any person found and
2 adjudged to be in contempt of court and shall have power
3 coextensive with the jurisdiction of the district court to
4 issue writs and other process and to approve and declare bonds
5 forfeited. In contempt of court cases brought pursuant to
6 Section 12-19-311(c) and (d), a municipal judge may punish by
7 a fine not exceeding five hundred dollars (\$500).

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

12 "§12-19-311.

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

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

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

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

17 "(2) The fees assessed pursuant to paragraph a. of
18 subdivision (1) of subsection (a) are required whether the
19 release from confinement or admittance to bail is based on
20 cash, judicial public bail, personal recognizance, a signature
21 bond, including a bond on electronic traffic and nontraffic
22 citations for those serious traffic offenses enumerated in
23 Title 32, Chapter 5A, Article 9, an appearance bond, a secured
24 appearance bond utilizing security, a bond executed by a
25 professional surety company, or a professional bail company
26 using professional bondsmen; provided, however that no fee
27 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
26 instrument, in hand. This fee shall be paid by the bondsman,
27 surety, guaranty, or person signing as surety for the

1 undertaking of bail. If the person is released on own
2 recognizance, judicial public bail, or non-custodial offense
3 pursuant to Rule 20 of the Alabama Rules of Judicial
4 Administration, the fee shall be assessed at the time of
5 adjudication or at the time that any other fees and costs are
6 assessed.

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

23 "(d) If the fee in paragraph a. of subdivision (1)
24 of subsection (a) is not paid in full within 30 days, the
25 clerk of the court shall provide notification of the
26 delinquency to the district attorney or prosecuting attorney
27 ~~within two days of the clerk's entry of the case or if the~~

1 ~~case is pending then within two days of the receipt of the~~
2 ~~executed bond~~ on a monthly basis. Upon receipt of the
3 certification of delinquency or failure to pay from the court,
4 the district attorney or prosecuting attorney may take
5 appropriate action which may include, but shall not be limited
6 to, contempt proceedings. If contempt proceedings are
7 initiated the district attorney or prosecuting attorney shall
8 send notice by U.S. Mail to the last known address of the
9 person charged with the crime, bondsman, surety, guaranty, or
10 person signing as surety for the undertaking of bail of the
11 failure to pay and provide them 10 days to remit payment in
12 full pursuant to this section. If the surety is the person
13 charged with the crime where the fee applies, the district
14 attorney or prosecuting attorney may file a petition for
15 contempt and the court shall set the contempt hearing on the
16 person's next regularly scheduled court appearance. If the
17 surety is not the person charged with the crime the district
18 attorney or prosecuting attorney may file a petition for
19 contempt with the court, which may, after hearing, find the
20 bondsman, surety, guaranty or person signing as surety the
21 undertaking of bail in contempt. The municipal court clerk
22 shall provide a list to the prosecuting attorney and district
23 attorney every 60 days that shall include, but not be limited
24 to, the name of every person who has failed to pay the fee,
25 the municipal case number, and the name of the person signing
26 as surety for the undertaking bail. If the prosecuting
27 authority of the municipality does not initiate contempt

1 proceedings pursuant to this section within 30 days of
2 receiving notice from the clerk of the court, the district
3 attorney with jurisdiction may file the contempt petition in
4 the municipal court. If the district attorney initiates
5 contempt proceedings in a municipal case and the person is
6 found in contempt, the fine shall be distributed as follows:
7 50% to the general fund of the municipality and 50% to the
8 district attorney Solicitor's Fund.

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

13 "(2) Notwithstanding (e) (1), if the bail bond has
14 been secured by cash, the conditions of release have been
15 performed, and the defendant has been discharged from all
16 obligations of the bond, or if the cash bail bond is forfeited
17 the clerk of the court shall, unless otherwise ordered by the
18 court, retain as the bail bond fee the amount pursuant to
19 paragraph b. of subdivision (1) of subsection (a) and disburse
20 the remainder as provided by law.

21 "(3) Notwithstanding (e) (1), if the property bail
22 bond has been secured, the conditions of release have been
23 performed and the defendant has been discharged or released
24 from all obligations of the bond, or if the property bail bond
25 is forfeited, then the bond shall be reduced to the bail bond
26 fee amount pursuant to paragraph b. of subdivision (1) of
27 subsection (a) and the property shall not be discharged or

1 released by the court until the bail bond fee pursuant to
2 paragraph b. of subdivision (1) of subsection (a) has been
3 paid in full.

4 "(4) The fees shall be collected pursuant to
5 paragraph b. of subdivision (1) of subsection (a) by the clerk
6 of the court. The fees pursuant to this section shall not be
7 remitted, waived, or reduced unless the defendant proves to
8 the reasonable satisfaction of the sentencing judge that the
9 defendant is not capable of paying the same within the
10 reasonably foreseeable future. The fees pursuant to this
11 section shall not be remitted, waived, or reduced unless all
12 other costs, fees, and charges of court are remitted or
13 waived.

14 "(5) The fees shall not reduce or affect the funds
15 allocated to the office of the court clerk, the sheriff, the
16 municipality, the district attorney, or the Alabama Department
17 of Forensic Sciences under any local act or other funding
18 mechanism under the law. These funds shall be in addition to
19 and not in lieu of any funds currently available to the office
20 of the court clerk, sheriff, municipality, the district
21 attorney, and the Alabama Department of Forensic Sciences.

22 "(f) The court clerks shall distribute on a monthly
23 basis as other fees are distributed, the fees collected
24 pursuant to paragraph a. of subdivision (1) of subsection (a)
25 as follows: Ten percent from each fee shall be distributed
26 either to the county general fund to be earmarked and
27 distributed to the Sheriff's Fund, administered by the

1 sheriff, in the county where the bond was executed or, where
2 the bond is executed by the municipality, to the municipality;
3 45 percent of the fee to the court clerk's fund where the bond
4 was executed or where the bond is executed by the municipal
5 court, to the municipality; 45 percent of the fee to the
6 Solicitor's Fund in the county where the bond was executed.
7 The bail bond fee records shall be audited by the Department
8 of Examiners of Public Accounts.

9 "(g) The court clerks shall distribute on a monthly
10 basis as other fees are distributed, the fees collected
11 pursuant to paragraph b. of subdivision (1) of subsection (a)
12 as follows: Twenty-one dollars and fifty cents (\$21.50) from
13 each fee shall be distributed to the county general fund which
14 shall be earmarked and distributed to the Sheriff's Fund,
15 administered by the sheriff, in the county where the bond was
16 executed or, where the bond was executed by a municipality, to
17 the municipality; 40 percent of the remainder of the fee to
18 the court clerk's fund where the bond was executed or where
19 the bond is executed by the municipal court, to the
20 municipality; 45 percent of the remainder of the fee to the
21 Solicitor's Fund in the county where the bond was executed;
22 five percent to the State General Fund and ten percent to the
23 Alabama Forensic Services Trust Fund. The bail bond fee
24 records shall be audited by the Department of Examiners of
25 Public Accounts."

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

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

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3 Senate

4 Read for the first time and referred to the Senate
5 committee on Governmental Affairs..... 14-MAR-13
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7 Read for the second time and placed on the calen-
8 dar..... 04-APR-13
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10 Read for the third time and passed as amended 10-APR-13

11 Yeas 27
12 Nays 3

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15 Patrick Harris
16 Secretary
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