

1 SB350
2 166733-3
3 By Senator Holley
4 RFD: Governmental Affairs
5 First Read: 09-APR-15

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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 prohibit a person from
14 acting in the capacity as a professional bail
15 agent, soliciting bail agent, bail enforcement
16 agent, or professional bondsman, unless that person
17 is qualified and licensed by the Department of
18 Insurance.

19 This bill would also require professional
20 bondsmen and recovery agents to attend a 12-hour
21 instructional course and pass an examination
22 developed and administered by the Department of
23 Insurance, and would also require professional
24 bondsmen and recovery agents to complete eight
25 hours of continuing education each year.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

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4 Relating to bail bondsmen; to prohibit a person from
5 acting in the capacity as a professional bail agent,
6 soliciting bail agent, bail enforcement agent, or professional
7 bondsman, unless that person is qualified and licensed by the
8 Department of Insurance; to require professional bondsmen and
9 recovery agents to complete an initial instructional course
10 and pass an examination prior to serving as a professional
11 bondsman or recovery agent; to require continuing education;
12 to provide for fees; and to provide rulemaking authority.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. For the purposes of this act, the
15 following terms shall have the following meanings:

16 (1) BAIL ENFORCEMENT AGENT. A person who assists the
17 professional bail agent in presenting the defendant in court
18 when required, or who assists in the apprehension and
19 surrender of the defendant to the court or who keeps the
20 defendant under necessary surveillance. Nothing in this
21 subdivision affects the right of professional bail agents to
22 have counsel or to ask assistance of law enforcement officers.

23 (2) COMMISSIONER. The Commissioner of Insurance.

24 (3) DEPARTMENT. The Department of Insurance.

25 (4) INSURER. Any domestic or foreign insurance
26 corporation or association engaged in the business of

1 insurance or suretyship which has qualified to transact surety
2 or casualty business in this state.

3 (5) PROFESSIONAL BAIL COMPANY. A person, individual,
4 proprietor, partnership, corporation, or other entity, other
5 than a professional surety company, that furnishes bail or
6 becomes surety for a person on an appearance bond and does so
7 for a valuable consideration.

8 (6) PROFESSIONAL BONDSMAN. An individual or agent
9 employed by a professional surety company or professional bail
10 company to solicit and execute appearance bonds or actively
11 seek bail bond business for or on behalf of a professional
12 surety company or a professional bail company and who assists
13 the professional bail agent in presenting the defendant in
14 court when required or assists in the apprehension and
15 surrender of the defendant to the court or keeps the defendant
16 under necessary surveillance.

17 (7) PROFESSIONAL SURETY COMPANY. Any individual who
18 furnishes bail, acting as a licensed personal surety agent or
19 as a licensed limited surety agent representing an insurer as
20 defined by this act. The term does not include, and this act
21 does not apply to, any individual who is not licensed under
22 this act who acts as personal surety in instances where there
23 is no compensation charged or received for such service.

24 (8) SURETY. The insurer or the personal surety agent
25 guaranteeing the bail bond and for the purpose of process does
26 not include the agent of the insurer or personal surety agent.

1 Section 2. A person desiring to engage in the
2 business of professional bail company, professional surety
3 company, professional bondsman, or bail enforcement agent in
4 this state shall apply to the Department of Insurance for a
5 license on forms prepared and furnished by the department. The
6 application for a license, or renewal thereof, shall set
7 forth, under oath, the following information:

8 (1) The full name, age, date of birth, Social
9 Security number, residence during the previous five years,
10 occupation, and business address of the applicant.

11 (2) Spouse's full name, occupation, and business
12 address.

13 (3) A photograph of the applicant and a full set of
14 fingerprints and a report from the sheriff of the applicant's
15 county of residence that the applicant has no felony record on
16 file with the United States National Crime Information Center.

17 (4) A statement that he or she is not licensed to
18 practice law in this state or any other state and that no
19 attorney or any convicted felon has any interest in his or her
20 application, either directly or indirectly.

21 (5) Any other information as may be required by this
22 act or by the department.

23 (6) In the case of a professional bondsman, a
24 statement that he or she will actively engage in the bail bond
25 business.

26 (7) In the case of a professional bondsman, a
27 statement that he or she will be employed or contracted by

1 only one professional bail company or professional surety
2 company. A professional bail company or professional surety
3 company shall sign the application of each professional
4 bondsman employed or contracted by him or her.

5 Section 3. (a) A person may not act in the capacity
6 of a professional bondsman, professional bail company,
7 professional surety company, or bail enforcement agent or
8 perform any of the functions, duties, or powers of the same
9 unless that person is qualified and licensed as provided in
10 this act. The terms of this act do not apply to any automobile
11 club or association, financial institution, insurance company,
12 or other organization or association or their employees who
13 execute bail bonds on violations arising out of the use of a
14 motor vehicle by their members, policyholders, or borrowers
15 when bail bond is not the principal benefit of membership, the
16 policy of insurance or of a loan to such member, policyholder,
17 or borrower.

18 (b) A license may not be issued or renewed except in
19 compliance with this act. A license may not be issued to or
20 renewed for any person who has ever been convicted of a felony
21 or any crime involving moral turpitude or who is under 21
22 years of age. A person engaged as a law enforcement officer or
23 judicial official or attorney may not be licensed under this
24 section. A person who is employed in any capacity at any jail
25 or corrections facility that houses state, county, or
26 municipal inmates who are or may be eligible for bail, whether
27 the person is a public employee, independent contractor, or

1 the employee of an independent contractor, may not be licensed
2 under this section.

3 (c) (1) The Department of Insurance is vested with
4 the authority to enforce this section. The department may
5 conduct investigations or request other state, county, or
6 local officials to conduct investigations and adopt such rules
7 as may be necessary for the enforcement of this act.

8 (2) The department may establish monetary fines and
9 collect such fines as necessary for the enforcement of adopted
10 rules. All fines collected shall be used by the department for
11 the operation of that agency.

12 (d) Each license issued under this section expires
13 annually on the last day of February, unless previously
14 revoked or suspended by the department, or upon notice served
15 upon the commissioner by the insurer that the authority of a
16 limited surety agent to act for or on behalf of the insurer
17 had been terminated, or upon notice served upon the
18 commissioner that the authority of a soliciting bail agent or
19 bail enforcement agent had been terminated by the professional
20 bail agent.

21 (e) The department shall prepare and deliver to each
22 licensee a certificate showing the name, address, and
23 classification of the licensee, and shall certify that the
24 person is a licensed professional bail agent, being either a
25 professional bail company or a professional surety company a
26 professional bondsman, or a bail enforcement agent. In
27 addition, the certificate, if for a professional bondsman,

1 shall show the name of the professional bail company or
2 professional surety company and any other information the
3 commissioner deems proper.

4 (f) The commissioner, after an administrative
5 hearing, may refuse to issue a privilege license for a
6 professional bondsman to change from one professional bail
7 agent to another if he or she owes any premium or debt to the
8 professional bail agent with whom he or she is currently
9 licensed.

10 Section 4. (a) A professional bondsman or recovery
11 agent commencing business in any circuit in this state on or
12 after February 1, 2016, shall attend a 12-hour instructional
13 course conducted by a provider approved by the Department of
14 Insurance. Upon completion of the course and passage of the
15 examination, the person shall be awarded an initial
16 examination certificate by the course provider.

17 (b) Those professional bondsmen and recovery agents
18 doing business immediately prior to February 1, 2016, are
19 exempt from the course requirement under subsection (a).

20 (c) The Commissioner of Insurance shall establish
21 the requirements for satisfying the requirements of this
22 section, including limitations on repeated failed
23 examinations.

24 Section 5. (a) Each professional bail bondsman or
25 bonding agent individually, including partners, officers, and
26 directors of a corporation engaged for a profit who are
27 qualified as professional bondsmen or bonding agents, making

1 bonds or entering into undertakings as surety in criminal
2 proceedings as defined in Section 15-13-160, Code of Alabama
3 1975, shall obtain eight hours of continuing education credits
4 during each 12-month period beginning January 1, 2016.

5 (b) Each agent shall file a copy of certification
6 with the department as required for annual renewal of
7 licenses. This certificate must include in detail the names,
8 locations, dates, and hours of each course attended, along
9 with the signature of the agent attesting that all continuing
10 education requirements have been completed.

11 Section 6. (a) A statewide bail association or other
12 provider certified by the department shall provide all
13 continuing education courses and shall either provide or
14 contract for a minimum of eight hours of continuing education
15 classes to be held on a regular basis and may provide
16 additional classes as necessary. Certificates shall be
17 prepared and delivered to all agents who have completed the
18 requirements. A certificate may not be issued to an agent who
19 has not completed the attendance requirements for that year.

20 (b) (1) A contract provider may subcontract for
21 classes. A schedule of these classes shall be provided to all
22 agents.

23 (2) No provider may charge more than five hundred
24 dollars (\$500) annually for the eight hours of continuing
25 education, and the costs of any course less than eight hours
26 shall be prorated accordingly.

1 (3) The fee charged under subdivision (2) may not be
2 increased or decreased based upon a person's membership in a
3 certified association.

4 Section 7. The Commissioner of Insurance may adopt
5 rules necessary for the implementation of this act.

6 Section 8. This act shall become effective on June
7 1, 2015, upon its passage and approval by the Governor or its
8 otherwise becoming law.