

1 HB346
2 149130-1
3 By Representative England
4 RFD: Judiciary
5 First Read: 26-FEB-13

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, a professional bail
9 company may become a surety on any appearance bond
10 in the state upon satisfying certain certification
11 requirements.

12 This bill would require a professional bail
13 company to be authorized twice a year to be a
14 surety on appearance bonds.

15 This bill would provide a maximum amount of
16 an appearance bond that a professional bail company
17 may post per defendant.

18 This bill would require a professional bail
19 company to provide an affidavit, sworn to and
20 signed by an owner, principal, member, or person
21 with a financial interest in the professional bail
22 company, setting forth proof of satisfaction of
23 certain requirements, including new requirements
24 related to criminal background histories and other
25 additional information.

1 This bill would provide for fees for
2 certification and would specify the disbursement of
3 the fees.

4 This bill would also require a person
5 employed by a professional bail company to pass an
6 examination developed by the Department of
7 Insurance and comply with other educational
8 requirements.

9 This bill would provide penalties for
10 providing false information or for failing to
11 disclose records requested by the presiding judge
12 or district attorney within the jurisdiction.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 To amend Section 15-13-160, Code of Alabama 1975,
19 relating to professional bail companies, to require
20 professional bail companies to be authorized to be sureties on
21 appearance bonds by the presiding circuit judge twice a year;
22 to provide a maximum amount of an appearance bond that a
23 professional bail company may post per defendant; to require
24 professional bail companies to provide an affidavit, sworn to
25 and signed by certain persons affiliated with the company,
26 setting forth proof of satisfaction of certain requirements;
27 to provide for fees for certification; to provide for

1 disbursement of the fees; to require a person employed by a
2 professional bail company to pass an examination developed by
3 the Department of Insurance; and to provide penalties for
4 providing false information or failing to disclose certain
5 records requested by a presiding judge or district attorney.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 15-13-160, Code of Alabama 1975,
8 is amended to read as follows:

9 "§15-13-160.

10 "(a) No professional bail company shall execute or
11 become surety on any appearance bond in this state, unless it
12 has an order granting authorization to become professional
13 surety on any bail. The order granting authorization shall be
14 reissued ~~annually~~ biannually prior to January 1 and July 1 of
15 each year by the presiding circuit judge of the county in
16 which the company desires to execute bail or appearance bonds.
17 Prior to the judge's issuance of the original order and no
18 later than December 1 and June 1 of each year, thereafter,
19 professional bail companies shall submit ~~annually~~ biannually
20 to the presiding circuit judge ~~the~~ an affidavit, sworn to and
21 signed by an owner, principal, member, or person with a
22 financial interest in the professional bail company, setting
23 forth proof of the following:

24 "(1) An original ~~corporate surety bond or escrow~~
25 agreement, filed and approved by the presiding circuit judge
26 of the county in which the professional bail company executes
27 or becomes surety on appearance bonds, in the minimum amount

1 of ~~\$25,000~~ one million dollars (\$1,000,000), guaranteeing the
2 payment of all sums of money that may become due by virtue of
3 any judgment absolute that may be rendered against the
4 professional bail company on a forfeiture entered by any court
5 in the county. The maximum amount of an appearance bond that a
6 professional bail company may post per defendant may not
7 exceed the amount of the escrow agreement filed with the
8 court, and total liabilities of the professional bail company
9 shall not exceed three times the escrow agreement filed with
10 the court. ~~Corporate surety bonds shall be executed only by a~~
11 ~~surety company authorized to do business in the State of~~
12 ~~Alabama and qualified to write bonds by the Department of~~
13 ~~Insurance. The corporate surety bond shall provide that it may~~
14 ~~be cancelled as to any future liability by the corporate~~
15 ~~surety company or the professional bail company giving 30 days~~
16 ~~prior written notice of the cancellation to the clerk of the~~
17 ~~circuit court in which the bond or instrument was filed. A~~
18 bank in the State of Alabama shall be a party to all escrow
19 agreements, and those agreements shall provide that the
20 agreement may be cancelled as to any future liability only by
21 the professional bail company and bank giving 30 days prior
22 written notice of the cancellation to the clerk of the circuit
23 court in which the escrow agreement or instrument is filed.
24 Once a professional bail company has filed an original
25 continuous ~~corporate surety bond or~~ escrow agreement with the
26 circuit clerk and it has been approved by the presiding
27 circuit judge, then the professional bail company does not

1 have to file any other original continuous ~~corporate surety~~
2 ~~bond or~~ escrow agreement upon ~~annual~~ biannual recertification.
3 The professional bail company shall submit ~~an original~~
4 ~~certificate from the insurance company which executed the~~
5 ~~corporate surety bond reflecting that it is still in force or~~
6 an original letter from the bank stating the escrow agreement
7 is still effective and the moneys are still held in trust.
8 When any professional bail company is ~~annually~~ biannually
9 recertifying, the ~~circuit clerk~~ professional bail company
10 shall obtain from the circuit clerk a certified list of its
11 outstanding appearance bonds and their amounts, referenced by
12 applicable case numbers and a copy of the original escrow
13 agreement shall send the original corporate surety bond or
14 original escrow agreement with any cancellations received by
15 the circuit clerk to the presiding circuit judge for review
16 and approval pursuant to this section.

17 "(2) An original qualifying power of attorney,
18 letter, or other document issued by the professional bail
19 company specifying any applicable limitations and specifying
20 the agents who are authorized to execute and bind the
21 professional bail company to a bail undertaking or to
22 appearance bonds. The qualifying power of attorney, letter, or
23 other document may only name persons as agents.

24 "(3) An original affidavit or certificate in
25 writing, under oath, executed by an owner or officer of a
26 professional bail company, to the clerk of the circuit court
27 of the county in which the professional bail company shall

1 execute or become surety on appearance bonds which contains
2 the following:

3 "a. That all appearance bonds shall be executed in
4 the name of the professional bail company as surety by the
5 agents listed or appointed in the qualifying power of
6 attorney, letter, or other document presented to the court or
7 any other person so named in any future qualifying powers of
8 attorney, letters, or documents filed with the circuit clerk
9 of the county.

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

12 "c. That the professional bail company has
13 sufficient financial net worth to satisfy its obligations as a
14 surety.

15 "d. That no person having a direct or indirect
16 financial interest, including an employee, agent, or other
17 person with a financial interest in the professional bail
18 company has been convicted of or is currently charged with any
19 a felony or a any crime involving moral turpitude or any
20 offense which has as an element of domestic violence in any
21 degree, assault in any degree, sexual offenses, drug offenses,
22 theft in any degree, driving under the influence of alcohol or
23 controlled substance, use of a deadly weapon or dangerous
24 instrument, or any person who is the subject of an active
25 protection from abuse order issued by a court of competent
26 jurisdiction in this state or any other state. ~~Notwithstanding~~
27 ~~the foregoing, if any person having a direct or indirect~~

1 ~~financial interest in the bonding business has been convicted~~
2 ~~of a felony or a crime involving moral turpitude, then the~~
3 ~~person making the certification shall certify that there has~~
4 ~~been a conviction, provide the name of the person convicted,~~
5 ~~and certify that the person convicted has been pardoned or has~~
6 ~~had a restoration of civil rights. Any person, including an~~
7 ~~employee, agent, or other person with a financial interest in~~
8 ~~the professional bail company shall submit to fingerprinting~~
9 ~~by the local sheriff's office for the purpose of obtaining~~
10 ~~national criminal history record information regarding the~~
11 ~~applicant. The applicant shall pay for the cost of the~~
12 ~~fingerprinting and criminal records check and submit the~~
13 ~~results of the records search to the presiding judge as part~~
14 ~~of the biannual certification process. The presiding judge~~
15 ~~shall review the records presented under this paragraph. If~~
16 ~~the report indicates that there is a pending charge for a~~
17 ~~felony or other offense described in this paragraph, an~~
18 ~~offense or a conviction for a felony or offense for which~~
19 ~~there is not a sworn certification by the individual and the~~
20 ~~owner of the professional bail company that the person~~
21 ~~convicted has been pardoned or has had a restoration of civil~~
22 ~~rights to include certified documentation from the appropriate~~
23 ~~government agency that issued the pardon or reinstatement of~~
24 ~~civil rights, the individual shall be prohibited from owning,~~
25 ~~operating, or working for the professional bail company in any~~
26 ~~capacity.~~

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

6 "f. That there are no persons, including employees,
7 agents, or persons with a financial interest in the
8 professional bail company, who, within a period of two years,
9 violated this chapter, or any rules adopted by the Supreme
10 Court governing the qualifications of professional surety or
11 bail companies.

12 "g. That no ~~employee, agent, or any other person~~
13 ~~having a direct or indirect~~ person, including an employee,
14 agent, or other person with a financial interest in the
15 professional bail company, is an attorney, a judicial
16 official, a person authorized to accept an appearance bond, or
17 an agent of an attorney, judicial official, or person
18 authorized to accept an appearance bond.

19 "h. The names and addresses of all ~~officers,~~
20 ~~employees, and agents of~~ persons, including employees, agents,
21 or persons with a financial interest in the professional bail
22 company ~~who have a direct or indirect financial interest in~~
23 ~~the professional bail company~~ and the nature and extent of
24 ~~each~~ the interest.

25 "(b) A list of persons, including employees, agents,
26 or persons with a financial interest in the professional bail
27 company shall be included in the biannual report to the

1 presiding judge and shall include confirmation that each
2 individual has a high school diploma or GED. Each biannual
3 report shall also include confirmation that the owner and
4 employees have completed the 20-hour course required under
5 subsection (e) and passed the state examination before
6 performing any duties for the professional bail bond company.
7 Each biannual report shall also include the continuing
8 education hours earned each quarter by the owner and employees
9 and, if none are earned, when the owner and employees are
10 scheduled to take any courses. If no courses are scheduled by
11 the owner and employees at that time, a statement verifying
12 that no courses are scheduled to be taken at that time. This
13 information shall be sworn to by the owner of the professional
14 bail bond company and upon request at any time from the
15 presiding judge or the district attorney within the
16 jurisdiction. The professional bail bond company shall produce
17 sworn proof of these requirements within 10 days of the date
18 the request is made. Failure to do so shall subject the
19 professional bail company to civil and criminal contempt.

20 "(c) Any person, including an employee, agent, or
21 other person with a financial interest in a professional bail
22 company in which a final forfeiture remains unresolved or not
23 paid in full is prohibited from certification.

24 "(d) A filing fee shall be paid for each biannual
25 certification in the amount of five hundred dollars (\$500) to
26 be distributed on an annual basis as follows:

1 "(1) Ten percent to the county general fund to be
2 distributed to the Sheriff's Fund, administered by the
3 sheriff, in the county where the annual certification was
4 filed.

5 "(2) Forty-five percent to the court clerk's fund
6 where the annual certification was filed.

7 "(3) Forty-five percent to the Solicitor's Fund in
8 the county where the biannual certification was filed.

9 "(e) A professional bail agent employed in any
10 capacity, whether full-time, part-time, contract, or in any
11 way paid by any professional bail bond company must satisfy
12 all of the following requirements:

13 "(1) Possess a high school diploma or GED
14 equivalent.

15 "(2) Complete a 20-hour training course on bail
16 bonding laws and protocols, approved by the Alabama Department
17 of Insurance and paid for by the attendee.

18 "(3) Pass a state certification exam on bail bonding
19 laws and protocols developed and administered by the Alabama
20 Department of Insurance and paid for by the attendee.

21 "(4) Maintain a minimum of 10 hours in continuing
22 education units as set out and approved by the Alabama
23 Department of Insurance and paid for by the attendee.

24 "(f) A person with a financial interest in the
25 professional bail company and the individual whose signature
26 appears on the sworn statements seeking recertification
27 pursuant to this section, if different from the persons with a

1 financial interest in the professional bail company, who
2 provides false information regarding any requirements of this
3 section shall be guilty of a violation of Section 13A-10-103.
4 The person shall also be found to be in contempt of court and
5 fined not less than five thousand dollars (\$5,000) per
6 violation.

7 "(g) If a person with a financial interest in the
8 professional bail company or the individual whose signature
9 appears on the sworn statement seeking recertification, if
10 different from the persons with a financial interest in the
11 professional bail company, fails to disclose records requested
12 by the presiding judge or district attorney within the
13 jurisdiction, he or she shall be guilty of a violation of
14 Section 13A-10-103 and shall be found to be in contempt of
15 court and fined not less than five thousand dollars (\$5,000)
16 per violation."

17 Section 2. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.