

SB213 ENROLLED



1 B0S94Q-3
2 By Senators Sessions, Williams
3 RFD: Banking and Insurance
4 First Read: 18-Apr-23
5 2023 Regular Session



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1 Enrolled, An Act,

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4 Relating to the Alabama Bail Reform Act of 1993; to
5 amend Sections 15-13-107, 15-13-111, 15-13-114, 15-13-118,
6 15-13-125, 15-13-128, 15-13-131, 15-13-132, 15-13-134,
7 15-13-136, 15-13-137, 15-13-138, 15-13-139, 15-13-140,
8 15-13-141, 15-13-145, 15-13-159, 15-13-160, and 15-13-164,
9 Code of Alabama 1975, to provide for the acceptance of certain
10 filing fees by the sheriff or jailer; to further define cash
11 bail and property bail; to provide further for the arrest and
12 delivery of a defendant to jail by a surety with no court
13 costs to be entered on the surety; to provide that a surety
14 not be charged for a bondsman's process or for a certified
15 copy of a bond; to require the license number of the bondsman
16 or recovery on a bondsman's process form; to allow a surety to
17 sign for a forfeiture with the clerk of the ordering court; to
18 increase the time frame for which the ordering court has
19 jurisdiction over a forfeiture action; to authorize a bail
20 bondsman to file motions, answers, and notices relating to a
21 defendant who is out on bond with that bondsman; to increase
22 the time frames for providing notice and conducting hearings
23 in conditional forfeiture proceedings; to remove the
24 requirement that a conditional judgment to set aside be made
25 absolute for the entire sum; to provide further for instances
26 when a court may set aside forfeiture and may not release a
27 defendant on judicial public bail; to provide further for
28 eligibility for judicial public bail; to provide further for



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29 the amount of new corporate surety bonds and escrow agreements
30 required in counties with populations of 200,000 or more; to
31 provide further for criminal penalties for certain unlawful
32 behavior; to make nonsubstantive, technical revisions to
33 update the existing code language to current style; and in
34 connection therewith would have as its purpose or effect the
35 requirement of a new or increased expenditure of local funds
36 within the meaning of Section 111.05 of the Constitution of
37 Alabama of 2022.

38 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

39 Section 1. Sections 15-13-107, 15-13-111, 15-13-114,
40 15-13-118, 15-13-125, 15-13-128, 15-13-131, 15-13-132,
41 15-13-134, 15-13-136, 15-13-137, 15-13-138, 15-13-139,
42 15-13-140, 15-13-141, 15-13-145, 15-13-159, 15-13-160, and
43 15-13-164 of the Code of Alabama 1975, are amended to read as
44 follows:

45 "§15-13-107

46 (a) Judges of any court within the ~~State of Alabama~~
47 state may accept, take, and approve bail within the
48 jurisdiction of their respective courts.

49 (b) Circuit, district, and municipal court clerks,
50 including magistrates, may accept, take, and approve bail
51 within the jurisdiction of their respective courts.

52 (c) Only judicial officers and circuit, district, and
53 municipal court clerks or a designee of the court may accept
54 and approve appeal bonds and cash bonds. Provided, however,
55 that any person designated by the court to receive cash bonds,
56 shall be bonded to receive court ~~moneys~~ monies and have the



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57 written approval of their chief administrative officer. Clerks
58 of the courts of Alabama may delegate to their employees the
59 right to accept and approve appeal bonds and cash bonds.

60 (d) Sheriffs of the state and chiefs of police having
61 custody of a defendant may accept, take, and approve property
62 or professional surety bail. The authority may be delegated to
63 their deputies and officers.

64 (e) The judicial officers and persons in subsections
65 (a), (b), (c), and (d) shall accept and shall release the
66 defendant when bail meets the requirements as set out in
67 Division 10, applying to professional surety. The judicial
68 officers and persons in subsection (c) shall accept, approve,
69 and release the defendant when the bail meets the requirements
70 as set out in Division 9, applying to cash bail. The judicial
71 officers and persons in subsections (a), (b), (c), and (d) may
72 accept, approve, and release the defendant when the officer or
73 person, as designated, is of the opinion the bail meets the
74 requirements as set out in Division 8 of this chapter,
75 applying to property bail.

76 (f) A sheriff or jailer may accept the filing fee
77 assessed under subsection (a) of Section 12-19-311, if payment
78 has been physically attached to the bail bond form at the time
79 of posting of the bail bond for the release of the defendant.
80 The clerks may accept business checks, cashiers checks,
81 certified checks, money orders, or cash. Any check or money
82 order shall be cashed within 90 days of receipt."

83 "§15-13-111

84 For persons arrested and taken into custody, there



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85 shall be four kinds of bail used in this state. No other form
86 of bail may be approved and accepted by any judicial officer,
87 court clerk, magistrate, or any other person designated to
88 accept and approve bail as stipulated in Division 1, Sections
89 15-13-100 to 15-13-110, inclusive. The four kinds of bail
90 shall be judicial public bail, cash bail, property bail, and
91 professional surety bail. Their definitions are as follows:

92 (1) CASH BAIL. Cash bail is when the defendant or some
93 person on behalf of the defendant deposits cash in an amount
94 equal to ~~a part or~~ the total sum of the bail as set by the
95 judicial officer to the clerk of the court having jurisdiction
96 over the case. Acceptance of cash bail shall conform to
97 Division 9.

98 (2) JUDICIAL PUBLIC BAIL. Judicial public bail is the
99 release of any defendant without any condition of an
100 undertaking relating to, or a deposit of, security. ~~Such~~
101 Judicial public bail shall be granted to persons subjected to
102 custodial arrest only by a judicial officer having
103 jurisdiction over the defendant and in accordance with the
104 procedures established in Division 7 ~~of this article~~.

105 (3) PROFESSIONAL SURETY BAIL. Professional surety bail
106 is when a defendant is released on bail by having a
107 professional surety or professional bail company execute a
108 bond on behalf of the defendant and becoming surety on the
109 bail. ~~Such~~ Professional surety or professional bail companies
110 shall meet the qualification requirements of Division 10.

111 (4) PROPERTY BAIL. Property bail is when a defendant is
112 released on bail by having at least one or more real property



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113 owners that own real property in the ~~State of Alabama~~ state,
114 execute or become bail or surety for the defendant. ~~Such~~
115 ~~property~~ Real property owners shall qualify and meet
116 requirements applying to property bail as set out in Division
117 8."

118 "§15-13-114

119 The obligation of the sureties continues throughout
120 every stage of trial, from the time the defendant is entered
121 thereon until the rendition of the verdict by the jury or
122 judge. The finding of the defendant guilty by a jury or judge
123 discharges the sureties. The obligation of the sureties are
124 also discharged when the judge takes any of the following
125 actions:

126 (1) Sentences the defendant.

127 (2) Grants the prosecutor's motion to nol pros the
128 case.

129 (3) Dismisses the case.

130 (4) ~~Issuance of~~ Issues any order to the defendant to
131 attend driving-under-the-influence school, mental health
132 counseling, or any similar order of which the court would only
133 have had the authority to do so, ~~if there had been an~~
134 ~~adjudication of guilt or in cases where there has been an~~
135 ~~adjudication of guilt.~~

136 (5) ~~Issuance of~~ Issues any order of restitution ~~or~~
137 ~~payments received from the defendant to the court for fines,~~
138 ~~court costs, or restitution when a bail bond is posted before~~
139 ~~a case is adjudicated.~~

140 (6) ~~Announcement or order of~~ Announces or orders



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141 sentence prior to any probation determination."

142 "§15-13-118

143 After the entry of a conditional forfeiture against any
144 surety on an undertaking of bail, the surety may arrest the
145 defendant as provided in Section 15-13-117, ~~but~~ and the arrest
146 and delivery of the defendant to the authorized jail as stated
147 in Section 15-13-117 shall **not** exonerate the surety **unless, in**
148 **the judgment of the court, a good and sufficient cause is**
149 **given for the failure of the defendant to appear at the time**
150 **the conditional judgement was entered."**

151 "§15-13-125

152 The clerk of the court having jurisdiction over the
153 defendant shall issue a bondsman's process to the sureties on
154 ~~such~~ the bail upon their request. The request may be made by
155 any one of the sureties. Before the issuance of the process,
156 the clerk shall determine if the case is still open and the
157 defendant and the sureties have not been discharged by law. A
158 surety shall not be charged for the bondsman's process or for
159 a certified copy of the bond."

160 "§15-13-128

161 The following shall be substantially the form to be
162 used for a bondsman's process. BONDSMAN'S PROCESS STATE OF
163 ALABAMA

164 COUNTY OF _____.

165 (or)

166 CITY OF _____.

167 WHEREAS, the Sureties on the bail of the defendant
168 _____, in case number _____, have expressed their desire to



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169 surrender the defendant to the custody of _____ of (City or
170 County), Alabama, and such desire has been expressed to the
171 clerk of the _____ Court of the City/County of _____, Alabama,
172 and,

173 WHEREAS, the clerk has checked the records and case
174 number _____ is still pending and the defendant nor his or her
175 sureties have been discharged of their obligations, or the
176 records of case number _____ reflect that the defendant has
177 failed to appear on the obligation of bail as required and a
178 warrant has been issued for the arrest of the defendant.

179 NOW, THEREFORE, this document is issued, as required by
180 law, and the document gives the right to the Sureties
181 (bondsmen) to arrest the defendant, _____ at any place in the
182 State of Alabama, or the sureties may authorize another person
183 to arrest the defendant by an endorsement in writing on this
184 document or attached to this document and the surety or
185 bondsman shall forthwith, after the arrest, take the defendant
186 to the _____ jail of _____, custodian thereof.

187 Executed this _____ day of _____, 20__.

188 _____ CLERK OF COURT

189 SEAL:

190 Bondsman Return

191 On this _____ day of _____, 20__, I _____
192 agent for _____ surrender the above named defendant to
193 the _____ jail of _____.

194 Time: _____

195 Bondsman's or Recovery License Number: _____."

196 "§15-13-131



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197 (a) When a defendant fails to appear in court as
198 required by the undertaking of bail and no sufficient excuse
199 has been provided to the court prior to the hearing, the court
200 shall order a conditional forfeiture and show cause order
201 against the defendant and the sureties of the bail. The court
202 shall notify defendant and sureties of the order as set out in
203 this article. The defendant or sureties, or both, shall file a
204 written response with the clerk of the court within ~~28~~30 days
205 ~~of~~ after the date of service of the notice why the bond should
206 not be forfeited. If a written response is filed within the
207 time allowed and the court is of the opinion the written
208 response is sufficient, the court shall set aside the
209 conditional forfeiture. If the court is of the opinion the
210 written response is not sufficient, the court shall set a
211 hearing to determine whether the bond should be forfeited. The
212 hearing shall not be set less than ~~90~~ 120 days ~~of~~ after the
213 service of the conditional forfeiture order. If no written
214 response has been filed ~~after~~ ~~28~~ 30 days from the date of
215 service of the notice, the court may enter an appropriate
216 order or final judgment forfeiting all or part of the amount
217 of the bond which shall be enforceable as any civil judgment.
218 The court may take into consideration the circumstances
219 provided to the court and continue any final forfeiture
220 hearing to another day and time allowing the sureties more
221 time to apprehend the defendant.

222 (b) When an undertaking of bail is forfeited by the
223 failure of the defendant to appear as required, except when
224 money is deposited as cash bail, a conditional judgment shall



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225 be rendered by the court in favor of the state or its
226 subdivisions, for the use of the proper city, county, or
227 state, against the parties to the undertaking for the sum
228 thereon expressed, which judgment may be substantially as
229 follows:

230 (State of or City of) Charge: _____ vs Case No.

231 _____ A.B. _____ C.D. _____ E.F.

232 (Sureties) _____

233 It being known to the court that A.B., together with
234 (Sureties) _____, agreed to pay the State of Alabama (or City
235 of _____,) _____ dollars (the sum specified in the
236 undertaking), unless A.B. appeared at the time and place
237 mentioned and fixed in the bond or undertaking to answer in
238 this case and A.B. having failed to appear at the time and
239 place mentioned in the bond or undertaking, it is therefore
240 ordered by the court that the State of Alabama (or City of
241 _____,) for the use of _____ State (or City), recover of the
242 defendant and sureties on the undertakings, the sum of _____
243 dollars (the sum specified in the undertaking), unless they
244 file a written response and show cause why this judgment
245 should not be made absolute within ~~28~~ 30 days ~~of~~ after the
246 date of service of this conditional forfeiture order.

247 (c) The state shall remit one-half of the funds it
248 receives under subsections (a) and (b) to the county in which
249 the defendant was charged. The funds shall be deposited into
250 the general fund of the county and used for the maintenance
251 and operation of the county jail."

252 "§15-13-132



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253 A notice of the rendition of the judgment set forth in
254 Section 15-13-131 shall be issued by the clerk of the court
255 and served according to the terms as established in this
256 article within 90 days of the court's conditional forfeiture
257 order to the defendant and sureties. The notice may be in the
258 following form:

259 STATE OF ALABAMA _____ (or City of
260 _____) Defendant vs _____ County _____
261 SuretyCase No. _____ SuretyCharge:
262 _____ Conditional Forfeiture Notice To:
263 _____
264 CourtDefendant _____ Surety

265 You are hereby notified that your name appears as a
266 surety on the bond in the above styled case. This case was
267 called for trial on _____ (date) and the defendant was not
268 present to answer. Therefore, a conditional forfeiture of
269 _____ dollars was entered against you.

270 You shall file a written response within ~~28~~ 30 days
271 after you receive this notice and show cause to the court why
272 this bond amount and the court cost incident to this
273 forfeiture should not be made final.

274 If no action on your part is taken ~~28~~ 30 days after the
275 date you receive this notice, a final forfeiture may be
276 entered against you by the court. The sheriff shall collect
277 the amount of the bond and court cost from you or levy on your
278 property to satisfy the forfeiture case. If you file a written
279 response and the court is of the opinion your written response
280 is not sufficient to set aside the conditional forfeiture,



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281 then the court shall set a final forfeiture hearing date and
282 you will be notified at the address provided on the response.

283 This bond forfeiture is a court case against you
284 separate from the defendant's criminal case. The court has
285 also ordered that the defendant be re-arrested in the original
286 case.

287 Date issued: _____ By _____ Clerk "

288 "§15-13-134

289 A conditional forfeiture notice may be served by any
290 law enforcement officer, at the law enforcement office in the
291 same manner as a summons in a civil action, except that
292 service may not be by publication. At the law enforcement
293 officer's discretion and expense, the notice may be served by
294 certified mail, requiring a signed receipt or some equivalent
295 thereof. In the event the notice is served by certified mail,
296 return of the receipt properly signed shall be prima facie
297 evidence of service. A surety may sign for the forfeiture with
298 the clerk of the court. The notice required by this subsection
299 ~~must~~ shall be returned by the ~~person~~ individual serving it,
300 with his or her proper return endorsed thereon, within
301 ~~twenty-eight~~ 30 days of the date of issuance or within five
302 days of service, whichever period of time is shorter."

303 "§15-13-136

304 In forfeiture cases where the clerk of the court has
305 failed to issue the conditional forfeiture notice as
306 stipulated in Section 15-13-132 and where there has been no
307 service as set out in Section 15-13-134 made within 90 days ~~of~~
308 after the ~~order of the court~~ as set out in Section 15-13-131,



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309 and where the sureties have complied with Section 15-13-133,
310 then the sureties shall be discharged from all liability of
311 the bail and the conditional judgment shall be set aside
312 against ~~such~~ those sureties."

313 "§15-13-137

314 If the defendants appear and show sufficient cause for
315 the default to be determined by the court, the conditional
316 judgment shall be set aside. If the excuse is not sufficient,
317 or if the defendant or sureties fail to appear at the final
318 forfeiture hearing, the judgment ~~shall~~ may be made absolute
319 for the entire sum expressed in the undertaking, or any
320 portion thereof according to the circumstances."

321 "§15-13-138

322 The court shall set aside the conditional forfeiture in
323 its entirety for the following reasons or under the following
324 circumstances:

325 (1) If the sureties can show that the defendant was
326 hospitalized at the time he or she was to appear in court, or
327 if the sureties can produce sufficient evidence that the
328 defendant was not able to attend court for reason of illness,
329 by producing a doctor's certificate or letter to that effect.
330 The hospitalization may be in or out of ~~the State of Alabama~~
331 this state. For the sureties to take advantage of this
332 ~~provision~~ subdivision, they shall put the court on notice that
333 the situation exists either prior to the issuance of the
334 conditional forfeiture order or ~~within 28~~ 30 days after legal
335 service of the conditional forfeiture on the sureties. After
336 receiving notice, the court may continue the case to a future



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337 date it deems proper and just for the defendant to appear. If
338 at that time the defendant is still not able to attend court
339 for the same reason, then it shall be the burden of the
340 sureties to produce the evidence within the same prescribed
341 time. This section ~~shall~~ does not bar the court from the
342 issuance of a bench warrant for the defendant in cases where
343 the court feels that documents of proof do not reflect the
344 truth, or where the court has reason to believe the defendant
345 may appear and he or she is using ~~such~~ the documents of proof
346 as an excuse to avoid appearance.

347 (2) If the sureties show that the defendant was
348 confined in jail or in the custody of another jurisdiction in
349 ~~the State of Alabama~~ this state or any other state, at the
350 time of his or her original appearance or on the date of the
351 issuance of the conditional forfeiture order, or if the surety
352 shows that the defendant is still confined in any jail in ~~the~~
353 ~~State of Alabama~~ this state or any other state, or in the
354 custody of another jurisdiction within ~~the State of Alabama~~
355 this state or any other state, or in the custody of another
356 jurisdiction within the continental United States, including
357 United States federal jurisdiction, the court shall set aside
358 the conditional forfeiture and continue the case until a time
359 after the end of that confinement. If the court later learns
360 that the defendant is free from confinement before the
361 confinement was supposed to end, then the court, with notice
362 to the sureties, may reset the case and the burden shall be on
363 the sureties to produce the defendant for the hearing or the
364 court may issue another conditional forfeiture.



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365 (3) If the sureties show the defendant is deceased.

366 (4) If the sureties show the defendant was serving on
367 active duty in one of the military services of the United
368 States."

369 "§15-13-139

370 In forfeiture cases where the sureties have paid the
371 amount of the forfeiture into the court or in cases where the
372 forfeiture has been made final or absolute and there is no
373 further litigation pending on the forfeiture, and the surety
374 locates the defendant and causes the return of the defendant
375 to the custody of the court where the bond was forfeited, and
376 if the defendant was substantially procured by actions of the
377 surety, and the administration of justice has not been
378 thwarted nor the successful prosecution of the defendant has
379 been affected, then the court which ordered the forfeiture,
380 shall have full power and jurisdiction in all proceedings
381 conducted pursuant to this article and within a period of ~~six~~
382 ~~months~~ one year from the date of issuance of any final
383 forfeiture judgment, to consider any costs to the state or its
384 subdivisions which resulted as a cause of the default, if any,
385 and upon giving consideration thereto, may, in the court's
386 discretion, remit the whole of the penalty of the bail, or
387 undertaking, or any portion thereof, which is in excess of any
388 costs to the state or its subdivisions, and render a new final
389 judgment against the sureties appearing upon the bail bond or
390 undertaking. In forfeiture cases, if the judgment has been
391 paid into the State Treasury or ~~Municipal Treasury~~ a municipal
392 treasury, the court may issue an order to the custodian of the



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393 treasury to make a refund to the sureties."

394 "§15-13-140

395 Reasons for default shall be heard by the court on
396 application, at any time when not engaged in other business.
397 When a conditional judgment is set aside for sufficient cause,
398 no cost shall be imposed on the sureties. This ~~provision~~
399 section has no application where money is deposited instead of
400 bail. Sureties may appear before the courts of this state or
401 its subdivisions to answer any "show cause order," conditional
402 or final forfeiture to give any reasons for default, to
403 present any defense to the default, and for any other purpose
404 of informing the courts about information relating to the
405 appearance or non-appearance of the defendant on the bail of
406 which they are surety. If the surety is a professional surety
407 company or professional bail company then any agent or
408 representative of the professional surety company or
409 professional bail company may appear for the same purposes."

410 "§15-13-141

411 In all cases where a conditional forfeiture has been
412 made final by any court of the state or any of its
413 subdivisions and there has been no further action or request
414 filed with the court, appeal taken, ~~application to the State~~
415 ~~Pardons and Paroles Board,~~ or any other litigation of which
416 the court has knowledge has been filed by the surety with the
417 court within 30 days to the clerk of the court of the entry or
418 order of the final judgment and the same has not been paid
419 within 30 days to the clerk of the court, then the clerk shall
420 refuse to accept and approve any bonds from the surety as



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421 being insufficient. The clerk shall notify all persons
422 authorized to accept and approve bonds returnable to the court
423 of the action and they shall no longer accept or approve
424 surety on bonds until notified otherwise by the clerk. The
425 clerk shall also notify the circuit clerk of the county who
426 shall notify all other clerks of any courts in the county in
427 writing and the clerks shall refuse to accept or approve any
428 other bonds of the surety and shall notify the other
429 authorized persons having the authority to approve and accept
430 bail returnable to their courts of the action and they shall
431 no longer accept or approve the surety on bail until otherwise
432 notified by the clerk. Refusal by the clerks shall be in
433 writing and shall be known as a "clerk's revocation of
434 surety."

435 "§15-13-145

436 Any person charged with a felony, misdemeanor, or
437 violation shall be eligible for a judicial public bail, if:

438 (1) The person is not charged with robbery, capital
439 murder, forcible sex crimes, escape, trafficking in drugs, or
440 the sale of drugs.

441 (2) The person has not been convicted of a previous
442 felony or committed a felony while being released on any form
443 of bail.

444 (3) The person is not presently under a suspended
445 sentence or on probation or parole for a previous conviction
446 on a misdemeanor or a felony.

447 (4) There is no evidence, satisfactory to the judicial
448 officer, that the person has violated a previous bail release,



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449 whether it be judicial public bail, property, cash, ~~or~~
450 professional surety bail, or failure to appear."

451 "§15-13-159

452 No professional surety company shall execute or become
453 surety on any appearance bond in this state, unless it has an
454 order granting authorization to become professional surety on
455 any bail. The order granting the authorization shall be
456 reissued annually, prior to January 1 of each year, by the
457 presiding circuit judge of the county in which the company
458 desires to execute bail or appearance bonds. Prior to the
459 judge's issuance of the original order and no later than
460 December 1 of each year, thereafter, professional surety
461 companies shall submit annually to the presiding circuit judge
462 the following:

463 (1) An original or certified copy of a certificate of
464 authority or certificate of compliance from the Department of
465 Insurance reflecting that the company is qualified to write a
466 bail line of insurance and that the company is in good
467 standing with the department.

468 (2) An original qualifying power of attorney issued by
469 the professional surety company, specifying any applicable
470 limitations and the names of the agents that may execute and
471 bind the company to a bail undertaking. The qualifying power
472 of attorney shall not name any company, corporation, or other
473 entity as an agent except a person as defined as a
474 professional bondsman in Division 1, Section 15-13-100 of this
475 chapter, and that person shall be an agent of the company
476 licensed with the Department of Insurance.



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477 (3) A copy of the license issued by the Department of
478 Insurance of each agent who is named in or appointed by the
479 qualifying power of attorney in subdivision (2) or a letter or
480 other documentation from the department indicating that the
481 appointed agents are temporarily licensed as agents of the
482 professional surety company for those lines of insurance.

483 (4) An affidavit or certification in writing, under
484 oath, executed by a licensed agent of the professional surety
485 company who is the manager or an owner or president of a
486 corporation, company, partnership, or other entity that
487 represents the professional surety company, filed with the
488 clerk of the circuit court of each county in which the
489 professional surety company executes or becomes surety on
490 appearance bonds, stating the following:

491 a. That all appearance bonds shall be executed in the
492 name of the professional surety company as surety by the
493 agents listed or appointed in the qualifying power of attorney
494 presented to the court or any other qualifying powers of
495 attorney filed with the circuit clerk of the county.

496 b. That all agents listed or appointed in the
497 qualifying powers of attorney shall be licensed by the
498 Department of Insurance, prior to their appointments.

499 c. That any agency, company, corporation, or other
500 entity that represents the professional surety company in the
501 county, has no owners or other persons having a direct or
502 indirect financial interest in such agency, company,
503 corporation, or other entity, that have been convicted of a
504 felony or a crime involving moral turpitude. If any person



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505 having a direct or indirect financial interest in such agency,
506 company, corporation, or other entity has been convicted of a
507 felony or a crime involving moral turpitude, then the
508 affidavit or certification shall certify that there has been
509 such conviction, providing the name of the person convicted,
510 and certify that the person convicted has been pardoned or has
511 had a restoration of civil rights.

512 d. That the professional surety company has no
513 knowledge of forfeitures that have been final for more than 30
514 days that have not been paid to the clerk of the court arising
515 out of surety undertaking, and that the professional surety
516 company has no petitions, motions, or other litigation matters
517 pending.

518 e. That no agents of the professional surety company
519 who have the authority to execute appearance bonds in its
520 behalf or any person having a financial interest, direct or
521 indirect, in the ownership or management of any agency,
522 company, corporation, or other entity that represents the
523 professional surety company in the execution of appearance
524 bonds, is an attorney, a judicial official, a person
525 authorized to accept an appearance bond, or an agent of an
526 attorney, judicial official, or person authorized to accept an
527 appearance bond.

528 f. The names and addresses of all persons, officers,
529 employees, and agents of the agency, company, corporation, or
530 other entity that represents the professional surety company
531 becoming surety on appearance bonds who have a direct or
532 indirect financial interest in the agency, company,



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533 corporation, or other entity representing the professional
534 surety company and the nature and extent of each interest.

535 g. That those persons stated in this section have not,
536 within a period of two years, violated any provisions of this
537 chapter or any rules adopted by the Supreme Court of Alabama
538 in accordance with this chapter.

539 (5) A copy of the current license issued by the Alabama
540 Professional Bail Bonding Board pursuant to the Alabama Bail
541 Bond Regulatory Act, Article 8, commencing with Section
542 15-13-200."

543 "§15-13-160

544 (a) No professional bail company shall execute or
545 become surety on any appearance bond in this state, unless ~~it~~
546 the company has an order granting authorization to become
547 professional surety on any bail. The order granting
548 authorization shall be reissued annually prior to January 1 of
549 each year by the presiding circuit judge of the county in
550 which the company desires to execute bail or appearance bonds.
551 Prior to the judge's issuance of the original order and no
552 later than December 1 of each year, thereafter, professional
553 bail companies shall submit annually to the presiding circuit
554 judge the following:

555 (1) a. An original corporate surety bond or escrow
556 agreement, filed and approved by the presiding circuit judge
557 of the county in which the professional bail company executes
558 or becomes surety on appearance bonds, in the amount of
559 ~~\$25,000~~ twenty-five thousand dollars (\$25,000), guaranteeing
560 the payment of all sums of money that may become due by virtue



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561 of any judgment absolute that may be rendered against the
562 professional bail company on a forfeiture entered by any court
563 in the county. Corporate surety bonds shall be executed only
564 by a surety company authorized to do business in the ~~State of~~
565 ~~Alabama~~ this state and qualified to write bonds by the
566 Department of Insurance. The corporate surety bond shall
567 provide that it may be cancelled as to any future liability by
568 the corporate surety company or the professional bail company
569 giving 30 days prior written notice of the cancellation to the
570 clerk of the circuit court in which the bond or instrument was
571 filed. A bank in ~~the State of Alabama~~ this state shall be a
572 party to all escrow agreements, and those agreements shall
573 provide that the agreement may be cancelled as to any future
574 liability only by the professional bail company and bank
575 giving 30 days prior written notice of the cancellation to the
576 clerk of the circuit court in which the escrow agreement or
577 instrument is filed. Once a professional bail company has
578 filed an original continuous corporate surety bond or escrow
579 agreement with the circuit clerk and it has been approved by
580 the presiding circuit judge, then the professional bail
581 company does not have to file any other original continuous
582 corporate surety bond or escrow agreement upon annual
583 recertification. The professional bail company shall submit an
584 original certificate from the insurance company which executed
585 the corporate surety bond reflecting that it is still in force
586 or an original letter from the bank stating the escrow
587 agreement is still effective and the ~~moneys~~ monies are still
588 held in trust. When any professional bail company is annually



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589 recertifying, the circuit clerk shall send the original
590 corporate surety bond or original escrow agreement with any
591 cancellations received by the circuit clerk to the presiding
592 circuit judge for review and approval.

593 b. Any new original corporate surety bond or escrow
594 agreement made after the effective date of the act adding this
595 paragraph, in a county with a population of 200,000 or more,
596 shall require a surety bond or escrow agreement in the amount
597 of fifty thousand dollars (\$50,000). This paragraph does not
598 affect any corporate surety bond or escrow agreement made
599 before the effective date of the act adding this paragraph.
600 Current escrow agreements and corporate surety bonds shall
601 remain at twenty-five thousand dollars (\$25,000) for any
602 renewal thereafter.

603 (2) An original qualifying power of attorney, letter,
604 or other document issued by the professional bail company
605 specifying any applicable limitations and specifying the
606 agents who are authorized to execute and bind the professional
607 bail company to a bail undertaking or to appearance bonds. The
608 qualifying power of attorney, letter, or other document may
609 only name persons as agents.

610 (3) An original affidavit or certificate in writing,
611 under oath, executed by an owner or officer of a professional
612 bail company, to the clerk of the circuit court of the county
613 in which the professional bail company shall execute or become
614 surety on appearance bonds which contains all of the
615 following:

616 a. That all appearance bonds shall be executed in the



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617 name of the professional bail company as surety by the agents
618 listed or appointed in the qualifying power of attorney,
619 letter, or other document presented to the court or any other
620 person so named in any future qualifying powers of attorney,
621 letters, or documents filed with the circuit clerk of the
622 county.

623 b. That the professional bail company is qualified to
624 do business in this state and its resident address.

625 c. That the professional bail company has sufficient
626 financial net worth to satisfy its obligations as a surety.

627 d. That no person having a direct or indirect financial
628 interest in the professional bail company has been convicted
629 of a felony or a crime involving moral turpitude.

630 Notwithstanding the foregoing, if any person having a direct
631 or indirect financial interest in the bonding business has
632 been convicted of a felony or a crime involving moral
633 turpitude, then the person making the certification shall
634 certify that there has been a conviction, provide the name of
635 the person convicted, and certify that the person convicted
636 has been pardoned or has had a restoration of civil rights.

637 e. That the professional bail company has no knowledge
638 of any forfeiture that has been made final for more than 30
639 days that has not been paid arising out of surety undertakings
640 and as to which the professional bail company has no
641 petitions, motions, or other litigation matters pending.

642 f. That there are no persons, including employees,
643 agents, or persons with a financial interest in the
644 professional bail company, who, within a period of two years,



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645 violated this chapter, or any rules adopted by the Supreme
646 Court governing the qualifications of professional surety or
647 bail companies.

648 g. That no employee, agent, or any other person having
649 a direct or indirect financial interest in the professional
650 bail company is an attorney, a judicial official, a person
651 authorized to accept an appearance bond, or an agent of an
652 attorney, judicial official, or person authorized to accept an
653 appearance bond.

654 h. The names and addresses of all officers, employees,
655 and agents of the professional bail company who have a direct
656 or indirect financial interest in the professional bail
657 company and the nature and extent of each interest.

658 (b) A professional bondsman may not own a professional
659 bail company until he or she has been licensed as a
660 professional bondsman for at least three years. If the owner
661 of a professional bail company dies or becomes completely
662 incapacitated, as determined by the board, his or her
663 professional bail bond company may be sold to an unlicensed
664 individual. The unlicensed individual shall have 90 calendar
665 days, from date of purchase, to obtain a license and shall
666 employ a minimum of one employee who has been licensed for at
667 least three consecutive years."

668 "§15-13-164

669 (a) Any person who becomes surety on any bail for a
670 defendant in this state and receives something of value or
671 charges a fee therefor, and who is not authorized as a
672 professional surety or bail company under this chapter shall



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673 be guilty of a Class A misdemeanor and, upon conviction, shall
674 be sentenced in accordance with the laws of this state for
675 such an offense.

676 (b) Any defendant, or other individual who provides
677 false information to the court or to the surety on any bail
678 bond forms or contracts, shall be guilty of a Class A
679 misdemeanor and, upon conviction, shall be sentenced in
680 accordance with the laws of this state.

681 (c) Any surety who exchanges sexual services in
682 exchange for bail bond services shall be guilty of a Class C
683 felony and, upon conviction, shall be sentenced in accordance
684 with the laws of this state."

685 Section 2. Although this bill would have as its purpose
686 or effect the requirement of a new or increased expenditure of
687 local funds, the bill is excluded from further requirements
688 and application under Section 111.05 of the Constitution of
689 Alabama of 2022, because the bill defines a new crime or
690 amends the definition of an existing crime.

691 Section 3. The provisions of this act are severable. If
692 any part of this act is declared invalid or unconstitutional,
693 such declaration shall not affect the part which remains.

694 Section 4. This act shall become effective on the first
695 day of the third month following its passage and approval by
696 the Governor, or its otherwise becoming law.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

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Senate 06-Jun-23

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

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 06-Jun-23

Senate concurred in House amendment 06-Jun-23

By: Senator Sessions