

1 HB347
2 149020-2
3 By Representative England
4 RFD: Judiciary
5 First Read: 26-FEB-13

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8 SYNOPSIS: Under existing law, authority to act as a
9 professional surety company or a professional bail
10 company may be revoked or withheld by a court for
11 violations of the laws governing professional bail
12 companies.

13 This bill would authorize the revocation of
14 authority to act as a professional surety company
15 or a professional bail company if specified acts
16 are committed.

17 This bill would require a professional bail
18 company to notify the presiding judge and the
19 district attorney's office in the counties where
20 the professional bail company is certified, in
21 writing, if any person, including an employee,
22 agent, or other person with a financial interest in
23 the professional bail company is arrested for a
24 felony or certain other criminal offenses.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To amend Section 15-13-163, Code of Alabama 1975,
4 relating to the examination of sureties and documents, to
5 authorize the revocation of authority to act as a professional
6 surety company or a professional bail company if specified
7 acts are committed; and to require a professional bail company
8 to notify the presiding judge and the district attorney's
9 office in the counties where the professional bail company is
10 certified, in writing, if any person, including an employee,
11 agent, or other person with a financial interest in the
12 professional bail company is arrested for a felony or certain
13 other criminal offenses within a specified timeframe.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Section 15-13-163, Code of Alabama 1975,
16 is amended to read as follows:

17 "§15-13-163.

18 "(a) The presiding judge of the circuit court may,
19 and on verified motion of the prosecutor shall, subpoena the
20 representatives of the professional surety company or
21 professional bail company or other persons for examination
22 under oath concerning matters relating to any affidavit or
23 certificate filed, outstanding forfeitures, and all relevant
24 books, tax returns, and financial data. Authority to act as a
25 professional surety company or a professional bail company may
26 be revoked or withheld by the court for violation of this
27 chapter, any rule promulgated by the Supreme Court of the

1 State of Alabama, in accordance with this chapter, for failure
2 to submit subpoenaed documents, for failure to answer
3 truthfully all relevant questions asked by the court, or in
4 the event the professional surety company or professional bail
5 company has outstanding and unpaid final forfeitures anywhere,
6 or in any court in the State of Alabama. As used herein,
7 outstanding unpaid final forfeitures shall be those in which a
8 final order of forfeiture has been entered by the court and 30
9 days have elapsed since the date of the final judgment;
10 provided, however, that those companies have no petitions,
11 appeals, or other matters of litigation pending of which the
12 court has knowledge.

13 "(b) In addition to subsection (a), the authority of
14 a professional surety company or professional bail company may
15 be revoked or suspended if it is determined to the reasonable
16 satisfaction of the judge that any person, including an
17 employee, agent, or other person with a financial interest in
18 a professional surety company or a professional bail company
19 in any jurisdiction in this state, commits any of the
20 following acts:

21 "(1) Knowingly commits, or is a party to, any
22 material fraud, misrepresentation, concealment, conspiracy,
23 collusion, forgery, scheme, or device whereby any other person
24 lawfully relies upon the word, representation, or conduct of
25 the any person representing or employed by the professional
26 bail company.

1 "(2) Solicits sexual favors or extorts additional
2 consideration as a condition of obtaining, maintaining, or
3 exonerating bail bond, regardless of the identity of the
4 person who performs the favors.

5 "(3) Conducts a bail bond transaction that
6 demonstrates bad faith, dishonesty, coercion, incompetence,
7 extortion, or untrustworthiness.

8 "(4) Coerces, suggests, aids and abets, offers a
9 promise of favor, or threatens any person on whose bond he or
10 she is surety or offers to become surety, to induce that
11 person to commit any crime.

12 "(5) Gives or receives, directly or indirectly, any
13 gift of any kind to any nonelected public official or any
14 employee of a governmental agency involved with the
15 administration of justice, including, but not limited to, law
16 enforcement personnel, magistrates, judges, jail employees,
17 and attorneys.

18 "(6) Fails to comply with any of the statutory or
19 regulatory requirements governing professional bail companies.

20 "(7) Fails to cooperate with any investigation by a
21 district attorney's office or a presiding judge.

22 "(8) Fails to comply with any subpoena issued by a
23 district attorney's office or a presiding judge.

24 "(9) With regard to professional bail companies,
25 violates Section 15-13-160, including providing materially
26 incorrect, misleading, incomplete, or untrue information in
27 any certification required under Section 15-13-160.

1 "(10) Provides bail for any person if he or she is
2 also an attorney representing that person.

3 "(11) Provides bail for any person if the bondsman
4 was initially involved in the arrest of that person.

5 "(b) (1) The professional bail company shall notify
6 the presiding judge and the district attorney's office in the
7 counties where the professional bail company is certified, in
8 writing, if any person, including an employee, agent, or other
9 person with a financial interest in the professional bail
10 company is arrested for a felony or a crime involving moral
11 turpitude in any state. The notification shall be made within
12 72 hours of the arrest.

13 "(2) The written notice shall contain all of the
14 following information:

15 "a. Date of the arrest.

16 "b. Location of the arrest.

17 "c. Offense for which the person was arrested.

18 "d. The name and address of the law enforcement
19 agency making the arrest.

20 "e. The court before which the person is to appear.

21 "f. The date of the initial court appearance.

22 "g. Certification that the person is no longer
23 working for the professional bond company.

24 "h. Any other information the professional bail
25 company may want to include.

26 "(3) Failure to comply with this subsection shall
27 result in an automatic suspension of the professional bail

1 company. The presiding judge shall not lift the suspension
2 unless and until the professional bail company has terminated
3 or otherwise separated from the individual charged. If notice
4 is not made as required in subdivision (2), the district
5 attorney's office may move to revoke the certification of the
6 professional bail company. If certification is revoked in any
7 jurisdiction in this state, the certification is deemed
8 revoked in all jurisdictions in this state."

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