

1 HB565
2 200364-3
3 By Representative England
4 RFD: Boards, Agencies and Commissions
5 First Read: 02-MAY-19

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to bail bonds; to require professional
9 bondsmen and recovery agents to register with the Alabama
10 Professional Bail Bonding Board; to create the board; to
11 provide for the membership and duties of the board; to create
12 the Alabama Bail Bond Board Fund; to provide procedures for
13 licensure applications; to provide for qualifications for
14 licensure; to provide for criminal penalties for making false
15 statements to the board; to provide for the suspension and
16 revocation of licenses; to authorize civil penalties for
17 violations; to require the completion of continuing education;
18 and in connection therewith would have as its purpose or
19 effect the requirement of a new or increased expenditure of
20 local funds within the meaning of Amendment 621 of the
21 Constitution of Alabama of 1901, now appearing as Section
22 111.05 of the Official ReCompilation of the Constitution of
23 Alabama of 1901, as amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. This act shall be known and may be cited
26 as the Alabama Bail Bond Regulatory Act.

1 Section 2. For the purposes of this act, the
2 following terms shall have the following meanings:

3 (1) BOARD. Alabama Professional Bail Bonding Board.

4 (2) PROFESSIONAL BONDSMAN. Any individual who is
5 employed by a professional bail company to solicit and execute
6 appearance bonds or actively seek bail bond business for or on
7 behalf of a professional bail company, including any
8 individual who has a direct or indirect ownership interest in
9 a professional bail company.

10 (3) PROFESSIONAL SURETY BONDSMAN. Any individual who
11 is employed by a professional surety company to solicit and
12 execute appearance bonds or actively seek bail bond business
13 for or on behalf of a professional surety company, including
14 any individual who has a direct or indirect ownership interest
15 in a professional surety company.

16 (4) RECOVERY AGENT. Any individual, other than an
17 attorney or law enforcement officer, utilized by a
18 professional surety company, professional bail company, or
19 professional bondsman to apprehend a defendant who was
20 released on bail and who failed to appear in court when
21 required.

22 Section 3. A individual may not hold himself or
23 herself out to the public as a professional bondsman, or
24 operate as a recovery agent, or use any term, title, or
25 abbreviation that expresses, infers, or implies that the
26 individual is licensed as a professional bondsman unless the
27 individual at the time holds a valid license as a professional

1 bondsman as provided in this act. All applicants shall pass an
2 examination, unless exempted by this act, based on criteria
3 established by the Alabama Professional Bail Bonding Board and
4 established under Section 4 and shall comply with the
5 continuing education requirements established by this act.

6 Section 4. (a) There is created the Alabama
7 Professional Bail Bonding Board to administer and enforce this
8 act. The board shall consist of all of the following members:

9 (1) Seven professional bondsmen, one from each of
10 the seven congressional districts of the state, nominated by
11 the Alabama Bail Bond Association and appointed by the
12 Governor from a list of not more than four nominees for each
13 position on the board. For the initial terms of office, the
14 President of the Alabama Bail Bond Association shall be the
15 professional bondsman member of the board who represents the
16 congressional district in which he or she resides. The
17 nominating and appointing authorities shall coordinate their
18 nominations and appointments to ensure that one of the
19 professional bondsman members is the owner of a professional
20 bail bond company with at least 10 years of experience. Except
21 as otherwise provided, no two professional bondsman members
22 shall reside in the same congressional district. If no
23 professional bondsman is available for nomination by the
24 Alabama Bail Bond Association for a congressional district,
25 the Alabama Bail Bond Association shall provide a list of four
26 professional bondsman nominees from the state at large to the
27 Governor for that congressional district, and the Governor

1 shall appoint one of those nominees to fill that position on
2 the board.

3 (2) One serving district or municipal court judge,
4 nominated by the Alabama Bail Bond Association and appointed
5 by the Governor from a list of four nominees.

6 (3) One serving circuit or municipal court clerk,
7 nominated by the Alabama Bail Bond Association and appointed
8 by the Governor from a list of four nominees.

9 (b) The appointments to the board shall be for terms
10 of four years. The nominating and appointing authorities shall
11 coordinate their nominations and appointments so that
12 diversity of gender, race, and geographical areas is
13 reflective of the makeup of this state. Vacancies shall be
14 filled by appointment of the Governor for the unexpired
15 portion of the term.

16 (c) The board, pursuant to the Alabama
17 Administrative Procedure Act, Chapter 22 of Title 41, Code of
18 Alabama 1975, shall adopt and enforce reasonable rules as the
19 board determines necessary to effectively and efficiently
20 carry out its official duty of licensing and regulating
21 professional bail bond companies and professional bondsmen.

22 (d) Each member of the board shall receive travel
23 and per diem compensation for expenses incurred in the conduct
24 of official duties while attending meetings and transacting
25 the business of the board, in accordance with applicable state
26 travel and per diem paid to state employees. The compensation

1 of members shall be paid from funds available to the board in
2 the same manner as other expenses are paid.

3 Section 5. (a) ~~The~~ Pursuant to Section 36-1-12, Code
4 of Alabama 1975, the members and employees of the board are
5 granted immunity from civil liability and may not be liable
6 for damages when acting in the performance of their duties
7 under this act.

8 (b) Board members and employees shall be defended by
9 the Attorney General in regard to any criminal or civil
10 litigation filed against them based on the performance of
11 their official duties under this act.

12 Section 6. At the initial meeting of the board and
13 each time a new member is appointed to the board, the members
14 of the board shall select from among their members a president
15 to preside over meetings of the board and a vice president to
16 preside in the absence of the chair and a secretary.

17 Section 7. (a) There is created in the State
18 Treasury for the use of the Alabama Professional Bail Bonding
19 Board a fund to be known as the Alabama Bail Bond Board Fund.

20 (b) All application and license fees, penalties,
21 fines, and any other fees or funds collected by the board
22 under this act are to be deposited in this fund and used only
23 to carry out the operations of the board.

24 (c) For the purpose of carrying out the objectives
25 of this act and for the exercise of the powers granted in this
26 act, the Alabama Professional Bail Bonding Board may direct
27 the disbursement of the funds from the Alabama Bail Bond Board

1 Fund necessary to cover reasonable and necessary operating
2 costs and board member compensation and expenses as provided
3 by this act, which shall be paid on warrant of the Comptroller
4 upon certificate or voucher of the secretary of the board,
5 approved by the president or vice president of the board.
6 Funds may not be withdrawn or expended except as budgeted and
7 allotted according to the provisions of Article 4 of Chapter 4
8 of Title 41, Code of Alabama 1975.

9 Section 8. (a) The Alabama Professional Bail Bonding
10 Board may adopt rules necessary to implement this act and
11 accomplish its objectives subject to the Alabama
12 Administrative Procedure Act.

13 (b) The board may adopt and establish canons of
14 ethics and minimum acceptable professional standards of
15 practice for licensees within any rules that it adopts.

16 (c) The board may hire personnel necessary or as
17 advisable to carry out the purposes of this act.

18 (d) The Attorney General shall provide legal
19 services to the board and its employees in connection with
20 official duties and actions of the board.

21 Section 9. (a) The board shall establish regular and
22 special meetings for the purpose of transacting its business
23 as provided by rules adopted by the board. Notice of board
24 meetings shall comply with the Alabama Open Meetings Act.

25 (b) A majority of the board shall constitute a
26 quorum at any meeting of the board.

1 Section 10. (a) Except as otherwise provided in this
2 act, it shall be unlawful for any individual to act as a
3 professional bondsman or recovery agent without first
4 obtaining a license from the board, but a professional surety
5 bondsman shall obtain a license from the Department of
6 Insurance and shall comply with all licensing requirements
7 issued by the Department of Insurance.

8 (b) A violation of subsection (a) is a Class A
9 misdemeanor.

10 (c) Each individual licensed in accordance with this
11 act shall designate to the board a physical address where his
12 or her records are to be kept.

13 Section 11. An application and all information on an
14 application for licensure as a professional bondsman shall be
15 treated as confidential and shall be filed with the board on
16 forms prescribed by the board. The application shall include
17 all of the following information of the applicant:

18 (1) His or her full name.

19 (2) His or her date of birth.

20 (3) All residences during the immediate past five
21 years.

22 (4) All employment or occupations engaged in during
23 the immediate past five years.

24 (5) A list of convictions and pending charges
25 involving a felony or misdemeanor in any jurisdiction.

26 Section 12. Each individual applicant shall meet all
27 of the following criteria, demonstrating that he or she:

1 (1) Is at least 21 years of age.

2 (2) Has not been declared by any court of competent
3 jurisdiction incompetent by reason of mental defect or disease
4 unless a court of competent jurisdiction has subsequently
5 declared the applicant competent.

6 (3) Has not been convicted of a crime of moral
7 turpitude, with the board having the final determination on
8 the interpretation of moral turpitude.

9 (4) Has not been convicted of a felony.

10 Section 13. (a) (1) If an application for a license
11 is denied, the board shall notify the applicant in writing and
12 specify the grounds for denial. If the grounds are subject to
13 correction by the applicant, the notice shall so state and
14 specify a reasonable period of time within which the applicant
15 shall make the required correction.

16 (2) The applicant may submit an application for
17 reconsideration to the board within 30 days from the date of
18 receipt of denial.

19 (b) The board shall issue a license to all licensees
20 that shall be at least 8" x 10" in size and shall be displayed
21 on a wall of the workplace of the licensee. This license shall
22 be deemed property of the state and subject to forfeiture to
23 the state upon revocation.

24 (c) All licenses issued or renewed under this act
25 shall be valid for a period from the date of issuance until
26 October 31.

1 Section 14. (a) The board shall issue to every
2 bondsman licensee an identification card, which shall be
3 issued in credit card size, be permanently laminated, and
4 contain the following information of the licensee:

5 (1) Name.

6 (2) Photograph.

7 (3) Bondsman's license number.

8 (4) Expiration date of license.

9 (b) The identification card shall be carried on the
10 individual of the licensee when engaged in the activities of
11 the licensee.

12 Section 15. Making a false statement to the board
13 shall be punishable by a civil penalty not to exceed one
14 thousand dollars (\$1,000) and assessment of the maximum
15 application fee.

16 Section 16. (a) The board may suspend, revoke, or
17 refuse to issue or renew any license issued by it upon finding
18 that the holder or applicant has committed any of the
19 following acts:

20 (1) A violation of this act or any rule promulgated
21 pursuant to this act.

22 (2) Fraud, deceit, or misrepresentation regarding an
23 application or license.

24 (3) Knowingly and willfully making a material
25 misstatement in connection with an application for a license
26 or renewal.

1 (4) A conviction by a court of competent
2 jurisdiction of a felony.

3 (5) A conviction by a court of competent
4 jurisdiction of a Class A misdemeanor, if the board finds that
5 the conviction reflects unfavorably on the fitness of the
6 individual for the license.

7 (6) The commission of any act which would have been
8 cause for refusal to issue the license or identification card
9 had it existed and been known to the board at the time of
10 issuance.

11 (b) A license may be suspended for the remaining
12 license period and renewed during any period in which the
13 license was suspended.

14 Section 17. A licensee may not be required to obtain
15 any authorization of license, or pay any other license fee or
16 tax, in any municipality, county, or other political
17 subdivision of this state to engage in any activity regulated
18 under this act.

19 Section 18. The Administrative Procedure Act shall
20 govern all matters and procedures respecting the hearing and
21 judicial overview of any contested case.

22 Section 19. (a) A professional bondsman or recovery
23 agent commencing business in any judicial circuit in this
24 state on and after ~~January~~ June 1, 2020, shall attend a
25 12-hour instructional course conducted by an educational
26 provider approved by the board and pass an examination
27 approved by the board and administered by an educational

1 provider approved by the board. Upon completion of the course
2 and passage of the examination, the individual shall be
3 awarded an initial examination certificate by the board,
4 copies of which may be submitted to the presiding circuit
5 judge, or other judicial authority, along with the other
6 requirements set forth in Section 15-13-159 or Section
7 15-13-160, Code of Alabama 1975. Those professional bondsmen
8 and recovery agents doing business immediately prior to
9 ~~January~~ June 1, 2020, are exempt from the initial 12-hour
10 course and examination.

11 (b) Unless exempted pursuant to subsection (i), a
12 professional bondsman or recovery agent making an annual
13 filing in any circuit in this state pursuant to Section
14 15-13-159 or Section 15-13-160, Code of Alabama 1975, on and
15 after six months after the effective date of this act shall
16 first complete eight hours of continuing education conducted
17 by an educational provider approved by the board. A
18 professional bail company owner, who is 55 years of age and
19 has 10 years of experience in the profession, shall only be
20 required to complete four hours of continuing education. The
21 educational provider approved by the board shall provide the
22 board with the name of all professional bondsmen or recovery
23 agents completing eight hours of continuing education. Upon
24 completion of the eight hours of continuing education, the
25 individual shall request issuance of an annual continuing
26 education certificate from the board, copies of which may be
27 submitted to the presiding circuit judge along with the other

1 requirements set forth in Section 15-13-159 or Section
2 15-13-160, Code of Alabama 1975.

3 (c) The 12-hour instructional course, examination,
4 or continuing education courses shall be taught or sponsored
5 by an educational provider approved by the board, which must
6 apply annually for authority to offer such examination or
7 courses.

8 (d) A list of approved course providers shall be
9 published on the website of the board.

10 (e) The cost of the 12-hour course shall be set by
11 the approved course provider but shall not exceed ~~four hundred~~
12 ~~dollars (\$400)~~ five hundred dollars (\$500) per course. Upon
13 completion of the 12-hour course, the approved course provider
14 shall issue a 12-hour course completion certificate in a form
15 approved by the board. This completion certificate must be
16 presented to the board in order to take the introductory
17 examination. A 12-hour course completion certificate shall be
18 valid for a period of 12 months.

19 (f) The cost of continuing education courses shall
20 be set by the approved course provider but shall not exceed
21 seventy-five dollars (\$75) per hour. Any fee required to be
22 paid by a course provider for reporting continuing education
23 course completion to the board may be added to the maximum
24 charges provided in this subsection.

25 (g) Each professional bondsman and recovery agent
26 must renew his or her certification with the board by
27 completing the eight hours of approved continuing education

1 prior to November 1 each year. Late renewal within the next 12
2 months may be had by completing the eight hours of continuing
3 education and paying a renewal license fee of twice the amount
4 otherwise required. If a professional bondsman or recovery
5 agent fails to renew a certification for a 12-month period,
6 the professional bondsman or recovery agent will be required
7 to take the initial 12-hour course and examination to again
8 become certified.

9 (h) The board shall set the fees to be paid to the
10 board in the administration of this section, not to exceed the
11 amounts set forth below:

12 (1) Examination fee, a nonrefundable fee to be paid
13 to take the examination and for the issuance of the initial
14 examination certificate, per examination attempt: One hundred
15 twenty-five dollars (\$125).

16 (2) Annual continuing education renewal certificate
17 fee, to be paid to receive the annual continuing education
18 certificate: Fifty dollars (\$50).

19 (i) Any professional bondsman who, on the effective
20 date of this act, is ~~65 years of age and has 15~~ 60 years of
21 age and has 10 years of experience in the profession, shall be
22 exempt from the continuing education requirements of this act.

23 (j) The board shall adopt rules necessary to carry
24 out this section.

25 Section 20. No criminal or civil action taken under
26 this act precludes a prosecution or action under any other law
27 of this state.

1 Section 21. The board shall be subject to the
2 Alabama Sunset Law, Chapter 20 of Title 41, Code of Alabama
3 1975, as an enumerated agency as provided in Section 41-20-3,
4 Code of Alabama 1975, and shall have a termination date of
5 October 1, 2023, and every four years thereafter, unless
6 continued pursuant to the Alabama Sunset Law.

7 Section 22. Although this bill would have as its
8 purpose or effect the requirement of a new or increased
9 expenditure of local funds, the bill is excluded from further
10 requirements and application under Amendment 621, now
11 appearing as Section 111.05 of the Official Recompilation of
12 the Constitution of Alabama of 1901, as amended, because the
13 bill defines a new crime or amends the definition of an
14 existing crime.

15 Section 23. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Boards, Agencies
and Commissions..... 02-MAY-19

Read for the second time and placed
on the calendar 2 amendments 08-MAY-19

Read for the third time and passed
as amended..... 15-MAY-19

Yeas 95, Nays 0, Abstains 4

Jeff Woodard
Clerk