

Mississippi Bail

Procedures Manual



Courtesy of

Mississippi Bail Agents Association

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COURT CLERKS AND THE BAIL BOND INDUSTRY

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PREFACE

The Professional Bail Agents Association of Mississippi, Inc., d/b/a Mississippi Bail Agents Association, has prepared this manual for all the Court Clerks of Mississippi to assist them in insuring that the bail bond system works to produce the defendant in Court and when the defendant fails to appear to provide the specific steps to forfeit and collect the face amount of the bail bond. The Association goals of education and promotion of professionalism are our first and foremost concern. MBAA first published this manual in 1993 because Mississippi Statutes were ambiguous and caused many problems throughout the State. The Court system was having a problem collecting on bond forfeitures.

While the first manual helped significantly, it still did not provide all the answers. Since that time, working with the Courts and through the State Legislature, the laws have been changed and forfeiting a bail bond is a clear and concise procedure. In addition to step-by-step instructions, we have included the State statutes concerning bail. These statutes are also available online via Lexis-Nexis on the Secretary of State web site at:

<http://www.sos.state.ms.us/pubs/MSCode/>.

The Mississippi Department of Insurance website provides an invaluable service online if you wish to research a bail agent's license at http://www.mid.state.ms.us/pages/online_services.aspx.

If there is ever any way in which the Association can assist you, please do not hesitate to call or email us:

Phone: 601-899-8599 Email: mbaa@msbail.org

We sincerely hope to continue the era of cooperation between the Court Clerks and the Bail Industry; and we hope that this manual will be a valuable tool for your everyday use.

***The Professional Bail Agents of Mississippi, Inc.
d/b/a Mississippi Bail Agents Association***

INTRODUCTION TO BAIL BONDS

I. DEFINITIONS

1. Types of Bail Agents and their responsibilities

a. Professional Bail Agents – Section 83-39-1(d) of the MS Code defines the "*Professional bail agent*" as any individual who furnishes bail, either in the capacity of a licensed *personal* surety agent or as a licensed *limited surety* agent representing an insurer. "Personal" agents put their individual estates or personal wealth on the line, and they are always individuals doing business as individuals although their business may have a different name. A "limited surety" agent is an individual but represents an insurance company, so the company is the primary entity on the line, although the agent has a certain responsibility to the company that may put his/her personal estate on the line.

b. Section 83-39-1(e) defines "*Soliciting bail agent*" as any person who is an agent or employee of a professional bail agent (whether personal or limited surety agent) or who acts as an independent contractor, for compensation or otherwise, soliciting, advertising or actively seeking bail bond business for or on behalf of a professional bail agent. They also can assist the professional bail agent in presenting the defendant in Court when required or assist in the apprehension and surrender of the defendant to the court. He/she can help keep the defendant under necessary surveillance. So, the soliciting agent is the salesperson who generally does a lot of the business of signing up defendants on bonds. The soliciting agent can also exercise the powers of a bail enforcement agent. A soliciting agent has no personal liability on a bond, only the personal surety or the limited surety's company.

c. Section 83-39-1(f) defines "*Bail enforcement agent*" as a person who assists the professional bail agent in presenting the defendant in court when required, or who assists in the apprehension and surrender of the defendant to the court or who keeps the defendant under necessary surveillance. Nothing herein shall affect the right of professional bail agents to have counsel or to ask assistance of law enforcement officers. Again, a bail enforcement agent has no personal liability on a bond, only the personal surety or the limited surety's company.

d. Section 83-39-1(g) defines a "*Limited surety agent*" as any individual who is appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings, and who is duly licensed by the commissioner to represent such insurer.

e. Section 83-39-1(h) defines a "*Personal surety agent*" as any individual who, having posted the necessary *qualification bond* with the *Commissioner*, may execute and sign bail bonds in connection with judicial proceedings. The qualification bond is not the same as a bail bond, it is a bond payable to the State of Mississippi through the Department of Insurance.

2. Miscellaneous terms:

a. "*Insurer*" means any domestic or foreign insurance corporation or association which has qualified to transact surety or casualty business in this state.

b. "*Surety*" means the insurance company or the personal surety agent guaranteeing the bail bond. (For the purpose of process, *surety* does not mean the agent of the insurer or of the personal surety agent.)

c. "*Surrender*" means the delivery of the defendant on a bond to law enforcement, not necessarily the original jurisdiction, especially if the defendant is apprehended out of that jurisdiction.

d. "*Principal*" means the defendant on the bond.

II. Bail Bond License Process

1. Bail bonding is an old business, and the way it is conducted is the product of many years of trial and error. It is a regulated by the Mississippi Department of Insurance since it is a form of insurance. The defendant is also called the *principal* on the bond itself and pays a *premium* for the bond, the proceeds of which upon default are paid to the *insured*, the County or City. The *Commissioner* is a state-wide elected official who is the head of the *Department*, which

has a division that specifically handles bail bond related matters, such as the licensing of the different types of agents. The *personal surety* agent or insurance company is the *surety* or the guarantor in the bond transaction.

2. Bail agents must go through a licensing process. They attend a pre-licensing education course of 40 hours and must complete eight hours of continuing education a year or sixteen hours in their two-year license period. As mentioned above, a *personal surety* agent puts his/her personal estate on the line to do business; they also post a \$30,000 *qualification bond* with the Department before they can start writing bonds. This bond is available if the agent ever defaults on paying a *final judgement*. The agent's license can be revoked as explained below. The *limited surety* agent is backed by an insurance company qualified to do business and approved by the Commissioner. (There is about a 1:1 ratio of personal surety agents to limited surety agents in the State of Mississippi.)

III. Bail bonds in the judicial system

1. Bail bonds are used to get defendants out of jail and back in court on the date they are assigned to appear. The law says a bail bond is not used to keep a person in jail. This is case law and has been set out in statute for a number of years. Sections 99-5-11 and 21-23-8). These two statutes were amended this year (2023) as reflected in the statutes set out below. The primary purpose of the amendment this year was to clarify or fill in a gap in the MS Rules of Criminal Procedure that resulted in defendants have to wait forty-eight (48) hours to see a judge to get bail set. The amendment allows defendants, if they so desire, to waive their right to see a judge and to have bail set by an official appointed by the judge. This official follows guidelines set by the judge in determining the amount of bail. The defendant can then post the bond in that amount and get out of jail immediately rather than having to wait up to forty-eight (48) hours to see the judge.

2. Once bail is set, the defendant must put up cash, a bail bond or some form of security. Cash bail or other security is forfeited if the defendant doesn't show up for his/her court date. A bail bond is not immediately forfeited and a process begins as set up below. The primary difference is that the bail agent/surety is now required to produce the defendant, or the bond is finally forfeited, and a judgement is entered on the bond against the surety. This motivates the bail agent to find and produce the defendant in court. *This is the real reason there are bail bondsmen – this system works to produce defendants in court and thereby protects public safety.*

3. The Mississippi Supreme Court has promulgated the MS Rules of Criminal Procedure (MRCrP) to govern procedure in criminal cases in our judicial system. RRCrP 5 and 8 govern pre-trial release and bail bonds. There sometimes an issue of whether the Rules or state statutes control a particular situation. The law is that the Supreme Court rules control in the area of procedure and the statutes control in the area of policy. In most situations, the statutes probably are the best authority to act. Also, consultation with legal counsel is advised.

IV. The Mississippi Bail Agents Association

The Association has been in existence for a number of years. The Association works with both the MS Legislature and the Department of Insurance to create a workable and fair system. Obviously, the bail agent wants a system that is not burdensome in regulation or law, so the Association must work to provide information to our regulatory agency and the Legislature that helps them understand our business. At the same time, the bail agent operates in the judicial system, and there must be a fair and balanced approach to the needs and protection of defendants, the personnel operating the courts, law enforcement officers and the safety of the public. The bail bond business is constantly under attack from people who believe it is not fair to defendants and keeps people in jail who cannot afford to pay the amount of bail set by the court. We strive to provide information that counters this belief, informs on the state of the law in this area and points out the commonsense error in this belief. *A bail agent does not profit in a situation where the defendant cannot pay the premium on a bond. The corollary is also true: the premium on a bail bond (10%) is much cheaper than the bail amount!*

I

REQUIREMENTS FOR ACCEPTING BONDS

1. Any person who executes or delivers a bail bond must hold a valid license from the Mississippi Department of Insurance. Should a question about licensing ever arise, you may call the Bail Bond Division of the Department of Insurance in Jackson at **601-359-3582** or go to their website.

http://www.mid.state.ms.us/pages/online_services.aspx.

2. The Court should issue an order to the Sheriff, and all bail agents who write bail bonds in that Court, that requires all bonds posted by a professional bail agent have the following preprinted or stamped clearly and legibly on the bond form:

Full name of the professional bail agent

Department of Insurance license number

Full and correct legal address of the professional bail agent

Complete phone number of the professional bail agent

In addition, if the bond is posted by a limited surety professional bail agent, the following should be preprinted or stamped clearly and legibly on the bond form:

Name of the insurer

Legal address of the insurer on file with the department

Phone number of the insurer

A true and correct copy of an individual agent's power of attorney authorizing the agent to post such bond shall also be attached to all bonds. If the bond is taken from a soliciting bail agent, the bond must contain the full name of the soliciting bail agent and the license number of such agent must be preprinted or stamped clearly and legibly thereon. All information required for a professional bail agent must be provided as well. A true and correct copy of an individual's power of attorney authorizing such soliciting bail agent to sign the name of the professional bail agent must be attached.

3. Soliciting bail agents are required to post a Qualifying Power of Attorney (Appendix I, page 42) giving that agent clear authority to sign the professional bail agent's name to the bond. All bonds must be signed in the name of the Professional Bail Agent. In the absence of a power of attorney, the Professional Bail Agent must sign all bonds personally. The original Qualifying Power of Attorney and copies of the State License of the Professional

Bail Agent and the Soliciting Bail Agent should be filed with the Circuit Clerk and attested copies delivered to any other courts of the county.

4. Professional Bail Agents licensed as limited surety agents representing insurance companies must file a Qualifying Power of Attorney (Appendix I, page 43) from their insurer giving them the authority to execute bail bonds. The original, along with copies of the license, should be filed with the Circuit Clerk. (MS Code of 1972, Section 99-5-7 requires filing the Qualifying Powers of Attorney with the Circuit Clerk and the Sheriff.)
5. All bail bonds should be signed in the name of the Professional Bail Agent. An individual Power of Attorney (Appendix I, page 44) should be attached to every bond giving that agent the authority to execute that bond in a specific amount.
6. All bail bonds posted by a limited surety agent or a bail soliciting agent must have an Individual Power of Attorney (Appendix I, page 45).
7. If there is no power of attorney attached to a bond written, there is no obligation for the surety to pay, whether personal or limited surety.
8. Most individual bond powers have a maximum amount. Be sure the bond is not posted for more than the maximum printed on the power. Individual Powers of Attorney cannot be stacked (more than one power on a bond) in order to reach the amount of the bond.
9. Almost all bail agents operate under a trade name. However, when collecting on bonds, the trade name is irrelevant. An old trick in the bonding business when an agent gets cut off or is about to be cut off because of forfeitures is to change agency names. This is the reason it is so important to know the name and license number of the professional bail agent and make sure all paperwork is issued in that agent's name rather than ~~an~~ his/her agency's name.
10. Never allow a professional bail agent to operate under more than one trade name. Some bail agents will try to operate under one trade name and have one or more of their soliciting bail agents operate under a different trade name. Per MS Code of 1972, Section 83-39-3, as amended 1994, a professional bail agent can only operate under one trade name and all soliciting bail agents must operate under the trade name of the professional bail agent.

[Note: Please note that the law imposes different duties on the different parties in a bail bond transactions. Please be aware of your duties as the clerk and follow the law to the letter. Small details can make a difference in being able to collect on a forfeited bond for your county or municipality.]

II

BOND FORFEITURES

NOTE: If process sent by certified mail is returned unclaimed twice, it is considered served even though it was never signed for. This is sufficient to impose liability on the surety.

1. If the Bail Agent gets the defendant to Court or if the defendant is surrendered, the Judge shall sign an Order Setting Aside Judgment Nisi (Appendix II, page 49). As per MS Code of 1972, Section 99-5-25, this order must be signed by the Judge in order to remove said judgment from Court records. A copy of the judgment that is set aside shall be served on the surety by personal service or certified mail.
2. If after ninety (90) days, the Bail Agent has not acted to have the Judgment Nisi set aside, the Judge should sign a Final Judgment (Appendix II, page 50) on the forfeiture. However, as per MS Code of 1972, Section 83-39-7, a Judge, for a valid reason and upon being petitioned by an Application for Extension of Time (Appendix II, page 51, may issue an Order Granting Extension of Time to Delay Final Judgment Nisi (Appendix II, page 52) before issuing a Final Judgment. (See MS Code of 1972, Section 99-5-22) If the forfeiture is made final, a copy of the final judgment shall be served on the Surety within ten (10) working days by either personal service or certified mail. The case should again be placed upon the calendar for ninety (90) days from that date.

NOTE: Do not send the Scire Facias, Judgment Nisi, or Final Judgment, to the Department of Insurance. It is a waste of your time and theirs. The only document sent to the Department is a Revocation Order.

3. Again, if the Bail Agent gets the defendant to Court or the defendant is surrendered, the Judge shall sign an Order Setting Aside Judgment Nisi and Final Judgment. This order must be signed by the Judge in order to remove said judgment from Court records. If the Bail Agent provides reasonable mitigating circumstances to the court, the Judgment Nisi shall not be made Final.
4. If the agent cannot produce the defendant and therefore pays the forfeiture to the Court, the judgment must still be set aside with an Order Satisfying and Canceling Final Judgment Nisi (Appendix II, page 53). This order must be signed by the Judge in order to remove said judgment from Court records.
5. The Bail Agent must satisfy the bond before the ninetieth (90th) day of the Final Judgment. The defendant must either be presented in Court, surrendered in Court or to jail, or a notice of surrender submitted to the court that the defendant is in jail in another jurisdiction, or the bond must be paid.

REVOCATIONS

6. If on the ninety-first (91st) day the Final Judgment has not been set aside, the Revocation Order should be signed by the Judge. A revocation order suspends the license of the surety.
7. If the Revocation Order is on a Professional Bail Agent licensed as a Personal Surety Agent, it should be to revoke the Qualification Bond and License of the Professional Bail Agent and all of his/her agents. (Appendix II, page 54)
8. If the Revocation Order is on a Professional Bail Agent licensed as a Limited Surety Agent it should be to revoke the License of the Professional Bail Agent and all his/her agents. The Revocation Order should show the name of the Insurer as well as the name of the Professional Bail Agent. (Appendix II, page 55). This is to alert the Department of any possible issues/problems with the insurance company.
9. The Revocation Order must then be served upon the Commissioner of Insurance.
NOTE: It is helpful to include a copy of the original Bail Bond, copies of the Scire Facias, Judgment Nisi, Final Judgment, and proof of service with the Revocation Order.
10. When the Revocation Order is issued a hearing is held. Under MS Code of 1972, Section 83-39-17, the license is suspended until that order is set aside.
11. Upon receiving payment of the outstanding bond, the Judgment Nisi, Final Judgment and Revocation Order remain in effect until an Order Setting Aside Judgment Nisi/Final Judgment/Revocation (Appendix II, page 56) is issued directing the Department of Insurance to remove the original revocation order.
12. If the Bail Agent pays the money on the bond, and within eighteen (18) months of the date of the Final Judgment, gets the defendant into Court, surrenders him to jail, or gets a “hold order” placed on him in another jurisdiction, the Bail Agent is due a remission of the bond. (MS Code of 1972, Section 83-39-7.) Remission must be made upon presentation to the Court of an Application for Remission of Bond (Appendix II, page 57) showing the proper reason for remission, along with the signing of the Order for Remission of Bond (Appendix II, page 58).

III

BOND JUMPING

1. A defendant who misses Court may be charged with bond jumping under MS Code of 1972, Section 83-39-29. He may be charged by the Court or by the Bail Agent.
2. A Bail Agent cannot serve a warrant for bond jumping or any other charge because he is not a sworn officer of the Court. However, he does not need a warrant to pick up the defendant, as this is specifically addressed by state statute (MS Code of 1972, Section 99-5-27) and judicial decision (*Taylor v Taintor*, 83 U.S. (16 Wall.) 366 (1872)).
3. Per MS Code of 1972, Section 99-5-25, a Bail Agent shall receive an attested copy of the warrant. The reason a bail agent needs a copy of the warrant is for protection of a law enforcement officer in the event of trouble arising from the arrest of the defendant.
4. Also, the MS Code of 1972, Section 99-5-27 allows a Bail Agent to receive any information available to law enforcement or the courts pertaining to the defendant for the purpose of safe surrender or for any reasonable cause in order to safely return the principal (defendant) to the custody of law enforcement and the court. Such information may include but is not limited to addresses, tag numbers, driver's license numbers, pictures, or any other information the court may have access to.

IV

WHEN A BOND IS DISCHARGED

1. A bail bond is discharged or cleared if the defendant appears in court and any of the following occurs:
 - a. The defendant is found to be guilty or pleads guilty,
 - b. the charge is dismissed or nolle prosequi (dismissed),
 - c. the charge is retired or remanded to the files.

NOTE: When a defendant appears before a Court and enters a plea of guilty and the amount of fine is entered into the Court records, the bond is discharged. **A bail bond, per MS Code of 1972, Section 99-5-25, guarantees the appearance of the defendant only – it does not guarantee the payment of fines or costs.**

2. A bail bond is discharged or cleared either when the defendant is surrendered by the bail agent in open Court or to the proper jail or Sheriff as required by MS Code of 1972, Section 99-5-27.
3. A bail bond is discharged or cleared when a defendant is placed on a non-adjudication sentence. Section 99-15-26(3) states: “(3) When the court has imposed upon the defendant the conditions set out in this section, the court shall release the bail bond, if any.” The statute does not require the successful completion of the imposed conditions to release the bail bond. The next subsection (4) does require that for dismissal and closing of the case.

**MISSISSIPPI CODE of 1972
TITLE 83
CHAPTER 39**

BAIL BONDS AND BONDSMAN

SECTION:

- 83-39-1.** Definitions.
- 83-39-3.** Individual License Required.
- 83-39-5.** License Requirements.
- 83-39-7.** Qualification Bond; return of defendant out on bond.
- 83-39-8.** Transfer of Qualification Bond.
- 83-39-9.** Issuance of License.
- 83-39-11.** License Fees.
- 83-39-13.** Annual reports required.
- 83-39-15.** Grounds for denial, suspension, revocation, and refusal to renew license.
- 83-39-17.** Hearing.
- 83-39-19.** Appeals.
- 83-39-21.** Judicial proceedings in lieu of departmental hearing.
- 83-39-23.** Notice to sheriff and judicial officials.
- 83-39-25.** Maximum premium, commission or fee; processing fee; holding collateral to insure payments of premium or indemnify for losses.
- 83-39-27.** Prohibited activities.
- 83-39-29.** Penalties.
- 83-39-30** Payment to inmates and their jailers prohibited.

- 83-39-31.** Fee on appearance bonds and recognizances; additional assessment on bail bonds to be deposited into Victims of Domestic Violence Fund.

§ 83-39-1. Definitions

The following terms when used in this chapter shall have the following meanings:

(a) "Department" means the Department of Insurance.

(b) "Commissioner" means the Commissioner of Insurance.

(c) "Insurer" means any domestic or foreign insurance corporation or association engaged in the business of insurance or suretyship which has qualified to transact surety or casualty business in this state.

(d) "Professional bail agent" means any individual who shall furnish bail, acting as a licensed personal surety agent or as a licensed limited surety agent representing an insurer as defined by this chapter. The above definition shall not include, and this chapter does not apply to, any individual who is not licensed under this chapter who acts as personal surety in instances where there is no compensation charged or received for such service.

(e) "Soliciting bail agent" means any person who as an agent or employee of a professional bail agent, or as an independent contractor, for compensation or otherwise, shall solicit, advertise or actively seek bail bond business for or on behalf of a professional bail agent and who assists the professional bail agent in presenting the defendant in Court when required or assists in the apprehension and surrender of the defendant to the court or keeps the defendant under necessary surveillance.

(f) "Bail enforcement agent" means a person who assists the professional bail agent in presenting the defendant in court when required, or who assists in the apprehension and surrender of the defendant to the court or who keeps the defendant under necessary surveillance. Nothing herein shall affect the right of professional bail agents to have counsel or to ask assistance of law enforcement officers.

(g) "Limited surety agent" means any individual who is appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings, and who is duly licensed by the commissioner to represent such insurer for the restricted lines of bail, fidelity and surety, after successfully completing a limited examination by the department for the restricted lines of business.

(h) "Personal surety agent" means any individual who, having posted the necessary qualification bond with the commissioner as required by Section 83-39-7, and duly licensed by the commissioner, may execute and sign bail bonds in connection with judicial proceedings. All new personal surety agents licensed after July 1, 1994, shall complete successfully a limited examination by the department for the restricted lines of business.

(i) "Surety" means the insurer or the personal surety agent guaranteeing the bail bond and for the purpose of process does not mean the agent of such insurer or personal surety agent.

(j) "Bail" means the use of money, property or other security to cause the release of a defendant from custody and secure the appearance of a defendant in criminal court proceedings, or the monitoring or supervision of defendants who are released from custody on recognizance, parole or probation, except when such monitoring or supervision is conducted after conviction, sentencing or other adjudication and solely by public employees.

Sources: Codes, 1942, § 8745-01; Laws, 1968, ch. 341, § 1; Laws, 1994, ch. 495, § 1; Laws, 2000, ch. 384, § 1; Laws, 2003, ch. 452, § 1, eff from and after July 1, 2003.

§ 83-39-3. Individual license required.

(1) No person shall act in the capacity of professional bail agent, soliciting bail agent or bail enforcement agent, as defined in Section 83-39-1, or perform any of the functions, duties or powers of the same unless that person shall be qualified and licensed as provided in this chapter. The terms of this chapter shall not apply to any automobile club or association, financial institution, insurance company or other organization or association or their employees who execute bail bonds on violations arising out of the use of a motor vehicle by their members, policyholders or borrowers when bail bond is not the principal benefit of membership, the policy of insurance or of a loan to such member, policyholder or borrower.

(2) (a) No license shall be issued or renewed except in compliance with this chapter, and none shall be issued except to an individual. No firm, partnership, association or corporation, as such, shall be so licensed. No professional bail agent shall operate under more than one (1) trade name. A soliciting bail agent and bail enforcement agent shall operate only under the professional bail agent's name. No license shall be issued to or renewed for any person who has ever been convicted of a crime that the commissioner finds directly relates to the duties and responsibilities of the business of a professional bail agent, soliciting bail agent, or a bail enforcement agent, including, but not limited to, any felony that involves an act of fraud, dishonesty, or a breach of trust, or money laundering. No licenses shall be issued to any person who is under twenty-one (21) years of age. No person engaged as law enforcement or judicial official or attorney shall be licensed hereunder. A person who is employed in any capacity at any jail or corrections facility that houses state, county or municipal inmates who are or may be eligible for bail, whether the person is a public employee, independent contractor, or the employee of an independent contractor, may not be licensed under this section.

(b) (i) No person who is a relative of either a sworn state, county or municipal law enforcement official or judicial official, or an employee, independent contractor or the contractor's employee of any police department, sheriff's department, jail or corrections facility that houses or holds federal, state, county or municipal inmates who are or may be eligible for bail, shall write a bond in the county where the law enforcement entity or court in which the person's relative serves is located. "Relative" means a spouse, parent, grandparent, child, sister, brother, or a consanguineous aunt, uncle, niece or nephew. Violation of this prohibition shall result in license revocation.

(ii) No person licensed under this chapter shall act as a personal surety agent in the writing of bail during a period he or she is licensed as a limited surety agent, as defined herein.

(iii) No person licensed under this chapter shall give legal advice or a legal opinion in any form.

(3) The department is vested with the authority to enforce this chapter. The department may conduct investigations or request other state, county or local officials to conduct investigations and promulgate such rules and regulations as may be necessary for the enforcement of this chapter. The department may establish monetary fines and collect such fines as necessary for the enforcement of such rules and regulations. All fines collected shall be deposited in the Special Insurance Department Fund for the operation of that agency.

(4) (a) Each license issued hereunder shall expire biannually on the last day of September, of each odd-numbered year, unless revoked or suspended prior thereto by the department, or upon notice served upon the commissioner by the insurer that the authority of a limited surety agent to act for or on behalf of such insurer had been terminated, or upon notice served upon the commissioner that the authority of a soliciting bail agent or bail enforcement agent had been terminated by such professional bail agent.

(b) A soliciting bail agent or bail enforcement agent may, upon termination by a professional bail agent or upon his cessation of employment with a professional bail agent, be relicensed without having to comply with the provisions of subsection (7)(a) and (b) of this section, if he has held a license in his respective license category within ninety (90) days of the new application, meets all other requirements set forth in Section 83-39-5 and subsection (7)(b) of this section, and notifies the previous professional bail agent in writing that he is submitting an application for a new license.

(5) The department shall prepare and deliver to each licensee a license showing the name, address and classification of the licensee, and shall certify that the person is a licensed professional bail agent, being designated as a personal surety agent or a limited surety agent, a soliciting bail agent or a bail enforcement agent. In addition, the license, of a soliciting bail agent or bail enforcement agent, shall show the name of the professional bail agent and any other information, as the commissioner deems proper.

(6) The commissioner, after a hearing under Section 83-39-17, may refuse to issue a privilege license for a soliciting bail agent to change from one (1) professional bail agent to another if he owes any premium or debt to the professional bail agent with whom he is currently licensed. The commissioner, after a hearing under Section 83-39-17, shall refuse to issue a license for a limited surety agent if he owes any premium or debt to an insurer to which he has been appointed. If a license has been granted to a limited surety agent or a soliciting bail agent who owed any premium or debt to an insurer or professional bail agent, the commissioner, after a hearing under Section 83-39-17, shall revoke the license.

(7) (a) Before the issuance of any initial professional bail agent, soliciting bail agent or bail enforcement agent license, the applicant shall submit proof of successful completion of forty (40) hours of prelicensing education approved by the Mississippi Insurance Department unless the applicant is currently licensed under this chapter on July 1, 2014 and maintained that license in compliance with the continuing education requirements of subsection (8) of this section. Any applicant who has met all continuing education requirements as set forth in subsection (8) (a) of this section and has been properly licensed under this chapter within ninety (90) days of submitting an application for a different license type shall not be subject to the prelicensing education requirement.

(b) All applicants for a professional bail agent, soliciting bail agent or bail enforcement agent license applying for an original license after July 1, 2014, shall successfully complete a limited examination by the department of the restricted lines of business before the licenses can be issued; however, this examination requirement shall not apply to any licensed bail soliciting agent and bail enforcement agent transferring to another professional bail agent license, any licensed bail soliciting agent applying for a bail enforcement agent license, and any licensed bail enforcement agent applying for a bail soliciting agent license. An applicant shall only be required to successfully complete the limited examination one.

Beginning on July 1, 2011, in order to assist the department in determining an applicant's suitability for a license under this chapter, the applicant shall submit a set of fingerprints with the submission of an application for license. The department shall forward the fingerprints to the Department of Public Safety for the purpose of conducting a criminal history record check. If no disqualifying record is identified at the state level the Department of Public Safety shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. Fees related to the criminal history record check shall be paid by the applicant to the commissioner and the monies from such fees shall be deposited in the special fund in the State Treasury designated as the "Insurance Department Fund."

(8) (a) Before the renewal of the license of any professional bail agent, soliciting bail agent or bail enforcement agent the applicant shall submit proof of successful completion of continuing education hours as follows:

(i) There shall be no continuing education required for the first licensure year of an original license.

(ii) Except as provided in subparagraph (i), eight (8) hours of continuing education for each year or part of a year of the two-year license period, for a total of sixteen (16) hours per license period.

(b) In an applicant for renewal failed to obtain the required eight (8) hours for each year of the license period during the actual license year in which the education was required to be obtained, the applicant shall not be eligible for a renewal license but shall be required to obtain an original license and be subject to the education requirements set forth in subsection (7). The commissioner shall not be required to comply with Section 83-39-17 in denying an application for a renewal license under this paragraph (b).

(c) The education hours required under this subsection (8) shall be approved by the Mississippi Insurance Department.

(d) The continuing education requirements under this subsection (8) shall not be required for renewal of a bail agent license for any applicant who is sixty-five (65) years of age and who has been licensed as a bail agent for a continuous period of twenty (20) years immediately preceding the submission of the application as evidenced by submission of an affidavit, under oath, on a form prescribed by the department, signed by the licensee attesting to satisfaction of the age, licensing, and experience requirements of this paragraph (d).

(9) No license as a professional bail agent shall be issued unless the applicant has been duly licensed by the department as a soliciting bail agent for a period of three (3) consecutive years immediately preceding the submission of the application. However, this subsection (9) shall not apply to any person who was licensed as a professional bail agent before July 1, 2011.

(10) A nonresident person may be licensed as a professional bail agent, bail soliciting agent or bail enforcement agent if:

(a) The person's home state awards licenses to residents of this state on the same basis; and

(b) The person has satisfied all requirements set forth in this chapter.

(11) On or before October 1, 2016, the Insurance Department shall establish a statewide Electronic Bondsmen Registry for all licenses, powers of appointment and powers of attorney requiring registration under this section. Once established, each professional bail agent, limited surety agent, bail soliciting agent, bail enforcement agent or insurance company writing bail bonds shall be required under this subsection (11) to register and maintain a record of each

required license, power of appointment and power of attorney in the registry. Failure to comply with this provision will subject the agent to the penalties provided in Section 83-39-29.

Sources: Codes, 1942, § 8745-03; Laws, 1968, ch. 341, § 3; Laws, 1994, ch. 495, § 3; Laws, 1997, ch. 410, § 20; Laws, 1997, ch. 588, § 71; Laws, 2007, ch. 501, § 4 eff from and after June 1, 2007.

§ 83-39-7. Qualification bond; return of defendant out on bond.

(1) (a) Each applicant for a professional bail agent license who acts as personal surety shall be

required to post a qualification bond in the amount of Thirty Thousand Dollars (\$30,000.00).

(b) The Insurance Department shall submit a report to the Senate and House of Representatives Committees on Accountability, Efficiency and Transparency that details the amount of all bonds or undertakings that each bail bondsman has written in this state on which the bail bondsman is absolutely or conditionally liable since the Bail Bond Database was established by the department. The report shall be submitted on or before December 1, 2017. The report shall also include the number of bail bondsmen who have failed to comply with the database reporting requirements, if any, the technical issues that may have occurred since the database was established and any suggested legislation to ensure each bail bondsman's continued compliance with the database reporting requirements.

(2) The qualification bond shall be made by depositing with the commissioner the aforesaid amount of bonds of the United States, the State of Mississippi or any agency or subdivision thereof, or a certificate of deposit issued by an institution whose deposits are insured by the Federal Deposit Insurance Corporation and made payable jointly to the owner and the Department of Insurance, or shall be written by an insurer as defined in this chapter, shall meet the specifications as may be required and defined in this chapter, and shall meet such specifications as may be required and approved by the department. The bond shall be conditioned upon the full and prompt payment of any bail bond issued by such professional bail agent into the court ordering the bond forfeited. The bond shall be to the people of the State of Mississippi in favor of any court of this state, whether municipal, justice, county, circuit, Supreme or other court.

(3) If any bond issued by a professional bail agent is declared forfeited and judgment entered thereon by a court of proper jurisdiction as authorized in Section 99-5-25, and the amount of the bond is not paid within ninety (90) days, that court shall order the department to declare the qualification bond of the professional bail agent to be forfeited and the license revoked. If the bond was not forfeited correctly under Section 99-5-25, it shall be returned to the court as uncollectible. The department shall then order the surety on the qualification bond to deposit with the court an amount equal to the amount of the bond issued by the professional bail agent and declared forfeited by the court, or the amount of the qualification bond, whichever is the smaller amount. The department shall, after hearing held upon not less than ten (10) days' written notice, suspend the license of the professional bail agent until such time as another qualification bond in the required amount is posted with the department. The revocation of the license of the professional bail agent shall also serve to revoke the license of each soliciting bail agent and bail enforcement agent employed or used by such professional bail agent. In the event of a final judgment of forfeiture of any bail bond written

under the provisions of this chapter, the amount of money so forfeited by the final judgment of the proper court, less all accrued court costs and excluding any interest charges or attorney's fees, shall be refunded to the bail agent or his insurance company upon proper showing to the court as to which is entitled to same, provided the defendant in such cases is returned to the sheriff of the county to which the original bail bond was returnable within Eighteen (18) months of the date of such final judgment, or proof made of incarceration of the defendant in another jurisdiction, and that a "Hold Order" has been placed upon the defendant for return of the defendant to the sheriff upon release from the other jurisdiction, the return to the sheriff to be the responsibility of the professional bail agent, then the bond forfeiture shall be stayed and remission made upon petition to the court, in the amount found in the court's discretion to be just and proper. A bail agent licensed under this chapter shall have a right to apply for and obtain from the proper court an extension of time delaying a final judgment of forfeiture if such bail agent can satisfactorily establish to the court wherein such forfeiture is pending that the defendant named in the bail bond is lawfully in custody outside of the State of Mississippi.

(4) The qualification bond may be released by the department to the professional bail personal surety agent upon an order to release the qualification bond issued by a court of competent jurisdiction, or upon written request to the department by the professional bail personal surety agent no earlier than five (5) years after the expiration date of his last license.

§ 83-39-8 Transfer of qualification bond.

If a professional bail agent who acts as a personal surety agent dies, the personal representative of the estate may contract with licensed professional bail agents, soliciting bail agents or bail enforcement agents to assist him in managing and closing the business affairs of the professional bail agent. The licensed professional bail agent, soliciting bail agent or bail enforcement agent contracted by the personal representative may, on behalf of the personal representative, present defendants in court when required, assist in the apprehension and surrender of defendants to the court, or keep defendants under necessary surveillance. Nothing herein shall give the personal representative the authority to execute and sign bail bonds in connection with judicial proceedings.

83-39-9. Issuance of license

The department upon receipt of the license application, the required fee, and proof of good moral character and, in the case of a professional bail agent, an approved qualification bond in the required amount, shall issue to the applicant a license to do business as a professional bail agent, soliciting bail agent or bail enforcement agent as the case may be. No licensed professional bail agent shall have in his employ in the bail bond business any person who could not qualify for a license under this chapter, nor shall any licensed professional bail agent have as a partner or associate in such business any person who could not so qualify.

Sources: Codes, 1942, § 8745-03; Laws, 1968, ch. 341, § 3; Laws, 1994, ch. 495, § 5, eff. from and after July 1, 1994

§ 83-39-11. License fees.

Each license application and application for license renewal to engage in the business of professional bail agent shall be accompanied by a fee of One Hundred Dollars (\$100.00). Each license application and application for license renewal to engage in the business of soliciting bail agent or bail enforcement agent shall be accompanied by a fee of Forty Dollars (\$40.00).

Sources: Codes, 1942, § 8745-04; Laws, 1968, ch. 341, § 4; Laws, 1994, ch. 495, § 6, eff from and after June 1, 2007

§ 83-39-13. Annual reports required.

(1) Each professional bail agent licensed under this chapter, under oath, shall provide to the Insurance Department an annual financial statement. The annual financial statement shall show assets, liabilities and net worth as of the end of the most recent calendar year. The statement shall be submitted annually to the department by June 1.

(2) (a) For purposes of applicable examinations, a professional bail agent licensed in this state shall maintain at least one (1) office physically located in any municipality or county in this state, to serve as his principal place of business operations where records pertaining to his bail agent business conducted in Mississippi are maintained and this office location shall be registered with the Insurance Department.

(b) When applying for an original or renewal license as a professional bail agent, the applicant shall indicate the address of the office location to serve as his principal place of business operations, and this address shall be evidenced on the face of the license issued to the licensee.

(c) If for any reason the professional bail agent changes the location of his principal place of business operations, removes to another state, or no longer continues in the profession as a bail agent, the bail agent shall register the new location with the department, or notify the department of his removal from the state or his cessation of business as a professional bail agent as appropriate.

(3) On or before October 1, 2016, the Mississippi Insurance Department shall establish a Bail Bond Database within the department for the reporting of all bail bonds written by personal surety agents and limited surety agents in this state. By November 15, 2016, each bail agent must input his or her bail bond information into the Bail Bond Database for all bonds written from and after October 1, 2016. By the fifteenth day of each subsequent month, each bail agent must update the Bail Bond Database regarding his or her bail bond information for bail bonds written from and after October 1, 2016, and each update must be current through the last day of the previous month. Any bail agent who fails to comply with the provisions of this subsection (3) shall be assessed a fine in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation.

Sources: Codes, 1942, § 8745-05; Laws, 1968, ch. 341, § 5; Laws, 1984, ch. 436; Laws, 1994, ch. 495, § 7; Laws, 1998, ch. 323, § 7, eff from and after July 1, 1998.

§ 83-39-15. Grounds for denial, suspension, revocation, and refusal to renew license.

(1) The department may deny, suspend, revoke or refuse to renew, as may be appropriate, a license to engage in the business of professional bail agent, soliciting bail agent, or bail enforcement agent for any of the following reasons:

(a) Any cause for which the issuance of the license would have been refused had it then existed and been known to the department.

(b) Failure to post a qualification bond in the required amount with the department during the period the person is engaged in the business within this state or, if the bond has been posted, the forfeiture or cancellation of the bond.

(c) Material misstatement, misrepresentation or fraud in obtaining the license.

(d) Willful failure to comply with, or willful violation of, any provision of this chapter or of any proper order, rule or regulation of the department or any court of this state.

(e) Conviction of felony or crime involving moral turpitude.

(f) Default in payment to the court should any bond issued by such bail agent be forfeited by order of the court.

(g) Being elected or employed as a law enforcement or judicial official.

(h) Engaging in the practice of law.

(i) Writing a bond in violation of Section 83-39-3 (2) (b) (i) and (ii)

(j) Giving legal advice or a legal opinion in any form.

(k) Acting as or impersonating a bail agent without a license

(l) Use of any other trade name than what is submitted on a license application to the department.

(m) Issuing a bail bond that contains information intended to mislead a court about the proper delivery by personal service or certified mail of a writ of scire facias, judgment nisi or final judgment.

(2) In addition to the grounds specified in subsection (1) of this section, the department shall be authorized to suspend the license, registration or permit of any person for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license, registration or permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license, registration or permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license, registration or permit suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

(3) In addition to the sanctions provided in this section, the department may assess an administrative fine in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation. Such administrative fines shall be in addition to any criminal penalties assessed under Section 99-5-1.

Sources: Codes, 1942, § 8745-06; Laws, 1968, ch. 341, § 6; Laws, 1994, ch. 495, § 8; Laws, 1996, ch. 507, § 89; Laws, 2001, ch. 563, § 2, eff from and after July 1, 2001

§ 83-39-17. Hearing.

Before any license shall be refused or suspended or revoked, or the renewal thereof refused hereunder, the commissioner shall give notice of his intention to do so, by registered mail, to the applicant or licensee and to the insurer or professional bail agent appointing or employing the applicant or licensee, as the case may be, and shall set a date, not less than twenty (20) days from the date of mailing the notice, when the applicant or licensee and a duly authorized representative of the insurer or professional bail agent may appear to be heard and produce evidence. In the conduct of the hearing, the commissioner, or any regular salaried employee specially designated by him for this purpose shall have power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records, or papers relevant to the inquiry upon his own initiative or upon the request of the applicant or licensee. Upon the termination of the hearing, findings shall be reduced to writing and, upon approval by the commissioner, shall be filed in his office and notice of the findings sent by registered mail to the applicant or licensee and the insurer or professional bail agent concerned.

Sources: Codes, 1942, § 8745-06; Laws, 1968, ch. 341, § 6; Laws, 1994, ch. 495, § 9; Laws, 2001, ch. 461, § 2, eff from and after July 1, 2001.

§ 83-39-19. Appeals.

Any person aggrieved by an act of the commissioner under the provisions of this chapter may appeal therefrom, within thirty (30) days after receipt of notice thereof, to the circuit court of the county in which is located the domicile of said person by writ of certiorari, upon giving bond with the surety or sureties and in such penalty as shall be approved by the circuit clerk of said county, conditioned that such appellant will pay all costs of the appeal in the event such appeal is not prosecuted successfully. The said circuit court shall have the opportunity and jurisdiction to hear said appeal and render its decision in regard thereto, either in term time or vacation time.

Actions taken by the commissioner or department in suspending a license, registration or permit when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a suspension of a license, registration or permit that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section.

Sources: Codes, 1942, § 8745-06; Laws, 1968, ch. 341, § 6; Laws, 1996, ch. 507, § 90, eff from and after July 1, 1996

§ 83-39-21. Judicial proceeding in lieu of departmental hearing.

The commissioner, in his discretion, in lieu of the hearing provided for in Section 83-39-17, may file a petition to suspend or revoke any license authorized hereunder in a court of competent jurisdiction of the county or district in which the alleged offense occurred. In such cases, subpoenas may be issued for witnesses, and mileage and witness fees paid by the defendant, if found guilty. If costs cannot be made and collected from the defendant, the costs shall be assessed against the qualification bond if the defendant is a professional bail agent, and if the defendant is a soliciting bail agent or bail enforcement agent, against the employing professional bail agent or his qualification bond.

Any court of competent jurisdiction within this state may suspend or revoke the license of any person licensed under this chapter for any of the following reasons:

- (a) Misappropriation, conversion or unlawful withholding of monies belonging to insured principals or others and received in the conduct of business under a license provided by this chapter.
- (b) Fraudulent or dishonest practices in the conduct of the business under a license provided by this chapter.
- (c) The commission of any act, which would prohibit or restrict the licensee from holding a license under this chapter.

The court, which suspends or revokes a license under the terms of this chapter, or the clerk thereof, shall promptly furnish the commissioner a copy of the suspension or revocation order.

Sources: Codes, 1942, § 8745-06; Laws, 1968, ch. 341, § 6; Laws, 1994, ch. 495, § 10, eff from and after July 1, 1994.

§ 83-39-23. Notice to sheriff and judicial officials.

No sheriff or other official shall accept bond from a professional bail agent unless the bail agent is licensed under this chapter and unless the bail agent shall exhibit to the court a valid certificate or license issued by the department, and the license of the bail agent shall not have been suspended or revoked. The department shall provide notice to the sheriff and municipal law enforcement and to the courts of every county and municipality of any suspension or revocation of a professional, soliciting or bail enforcement license. The department, upon request, may furnish to any sheriff, district, circuit, county or justice court judge or municipal judge additional information, which would appropriately identify the duly licensed professional bail agent and insurers whose operation is covered by this chapter.

Sources: Codes, 1942, § 8745-07; Laws, 1968, ch. 341, § 7; Laws, 1994, ch. 495, § 11, eff from and after July 1, 1994.

§ 83-39-25. Maximum premium, commission or fee; processing fee; holding collateral to insure payment of premium or indemnify for losses.

(1) A professional bail agent or his agent shall charge and collect for his premium, commission, or fee an amount of ten percent (10%) of the amount of bail per bond posted by him, or One Hundred Dollars (\$100.00), whichever is greater,

except on a bond on a defendant who is charged with a capital offense, or on a defendant who resides outside the State of Mississippi, in which case the premium, commission or fee shall be fifteen percent (15%) of the amount of bail, per bond posted by him, or One Hundred Dollars (\$100.00), whichever is greater.

(2) A Professional bail agent or his agent shall also charge an additional Fifty Dollars (\$50.00) processing fee on each bond issued by him.

(3) Nothing herein shall prohibit a professional bail agent or his agent from holding collateral or taking a security interest in collateral for the purpose of insuring the payment of the premium of the bond posted or indemnifying the professional bail agent for losses incurred due to a forfeiture of a bond or the costs of apprehension and surrender of the principal.

(4) Any fee charged by a professional bail agent or his agent for court-approved electronic monitoring or drug testing shall not be considered part of the premium, commission or fee charged under this section.

Sources: Codes, 1942, § 8745-08; Laws, 1968, ch. 341, § 8; Laws, 1994, ch. 495, § 12; Laws, 1994, ch. 634, § 1; Laws, 2001, ch. 350, § 1; Laws, 2007, ch. 501, § 2; Laws, 2009, ch. 520, § 1, eff from and after July 1, 2009.

§ 83-39-27. Prohibited activities.

It is unlawful for a licensee to engage in any of the following activities:

(a) Specify, suggest or advise the employment of any particular attorney to represent his principal.

(b) Pay a fee or rebate or give or promise to give anything of value to a jailer, policeman, peace officer, clerk, deputy clerk, any other employee of any court, district attorney or any of his employees or any person who has power to arrest or to hold any person in custody.

(c) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any act on a bond, or as counsel to represent such bail agent, his agent or employees.

(d) Pay a fee or rebate or give or promise to give anything of value to the person on whose bond he is surety.

(e) Pay a fee or rebate or give or promise to give anything of value to any person, other than a soliciting bail agent, for the purpose of procuring a bail bond.

(f) Accept anything of value from a person on whose bond he is surety, or from others on behalf of such person, except the fee or premium on the bond, but the bail agent may accept collateral security or other indemnity.

(g) Coerce, suggest, aid and abet, offer promise of favor or threaten any person on whose bond he is surety or offers to become surety, to induce that person to commit any crime.

(h) Give legal advice or a legal opinion in any form.

(i) Refuse to return collateral security or other indemnity when the fee or premium on the bond has been fully paid or when the bail agent's obligation on the bond has been terminated.

Sources: Codes, 1942, § 8745-09; Laws, 1968, ch. 341, § 9; Laws, 1994, ch. 495, § 13; Laws, 2001, ch. 320, § 1, eff from and after passage (approved Mar. 5, 2001).

§ 83-39-29. Penalties.

(1) The department may provide information to the district attorney in the district in which a professional bail agent, a soliciting bail agent or bail enforcement agent is domiciled so that proper legal action may be pursued against any licensee who is alleged to have violated any provision of Chapter 39 of Title 83. Such licensee is guilty of a misdemeanor and shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00), imprisonment in the county jail for not more than one (1) year, or both. Any insurer violating any provision of Chapter 39 of Title 83 may be fined in an amount not to exceed Fifty Thousand Dollar (\$50,000.00).

(2) Any person or entity who acts or attempts to solicit, write or present a bail bond as a professional bail agent, soliciting bail agent, or bail enforcement agent as defined in this chapter and who is not licensed under this chapter is guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00), imprisonment in the county jail for not more than one (1) year, or both.

(3) Any person who acts or attempts to act, represents himself to be, or impersonates a professional bail agent, a soliciting bail agent or a bail enforcement agent as defined in this chapter by attempting to arrest or detaining any person and who is not licensed under this chapter is guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00), imprisonment for not more than one year, or both.

(4) A bail agent, bail soliciting agent or bail enforcement agent from another state shall report to the sheriff's department of the county in which he is attempting to locate a fugitive prior to looking for the fugitive to prove his licensing and legal right to the fugitive. Failure to prove licensing shall be punishable by a fine not to exceed One Thousand Dollars (\$1,000.00).

(5) Any person charged with a criminal violation who has obtained his release from custody by having a professional bail agent, insurer, agent of a bail agent or insurer, or any person other than himself furnish his bail bond and who fails to appear in court, at the time and place ordered by the court, is guilty of "bond jumping" and, upon conviction, shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00), imprisonment in the county jail for not more than one (1) year, or both, and payment of restitution for reasonable expenses incurred returning the defendant to court.

(6) Any person who knowingly and intentionally aids and abets any person in the commission of the offense of bond jumping, whether the person committing the principal offense is actually convicted, shall be guilty of aiding and abetting bond jumping and, upon conviction, shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for not more than one (1) year, or both, and payment of restitution for reasonable expenses incurred in returning the defendant to court. Any person who is convicted of aiding and abetting shall be jointly and severally liable for payment of restitution for reasonable expenses incurred in returning the defendant to court.

(7) Any bail agent who is prejudiced or injured by the commission of any of the offenses set forth in this section shall have standing to file a complaint alleging the commission of the offense or offenses.

Sources: Codes, 1942, §§ 8745-09, 8745-10; Laws, 1968, ch. 341, §§ 9, 10; Laws, 1994, ch. 495, § 14; Laws, 1994, ch. 634, § 2; Laws, 2003, ch. 466, § 1; Laws, 2005, ch. 412, § 1; Laws, 2009, ch. 520, § 2, eff from and after July 1, 2009.

§ 83-39-30. Payment to inmates and their jailers prohibited.

(1) Any person licensed under this chapter who pays or gives anything of value, either directly or indirectly, to any law enforcement or judicial official or any employee of any facility where defendants who are or may be eligible for bail are detained or may post bail for the purpose of enticing that official or employee to refer business in any manner to them shall be guilty of a felony subject to imprisonment for not more than five (5) years or a fine of not more than Fifty Thousand Dollars (\$50,000.00), or both. Nothing in this section shall prohibit bail agent from making political contributions to persons running for public office.

(2) Any person licensed under this chapter who pays or gives anything of value, either directly or indirectly, or who solicits another person to pay or give anything of value to any convicted inmate or trustee, regardless of whether they are held pretrial or post-conviction in any facility where defendants who are or may be eligible for bail are detained or may post bail for the purpose of enticing that convicted inmate or trustee to refer business in any manner to them shall be guilty of a felony subject to imprisonment for not more than five (5) years or a fine of not more than Fifty Thousand Dollars (\$50,000.00), or both.

(3) Any person who is convicted under this section shall have their license permanently revoked and may not be involved in any bail business in any way.

SECTION 7. This act shall take effect and be in force from and after July 1, 2014.

§ 83-39-31. Fee on appearance bonds and recognizances; additional assessment on bail bonds to be deposited into Victims of Domestic Violence Fund.

(1) Upon every defendant charged with a criminal offense who posts a cash bail bond, a surety bail bond, a property bail bond or a guaranteed arrest bond certificate conditioned for his appearance at trial, there is imposed a fee equal to two percent (2%) of the face value of each bond or Twenty Dollars (\$20.00), whichever is greater, to be collected by the clerk of the court when the defendant appears in court for final adjudication or at the time the defendant posts cash bond unless subsection (4) applies.

(2) Upon each defendant charged with a criminal offense who is released on his own recognizance, who deposits his driver's license in lieu of bail, or who is released after arrest on written promise to appear, there is imposed a fee of Twenty Dollars (\$20.00) to be collected by the clerk of the court when the defendant appears in court for final adjudication unless subsection (4) applies.

(3) Upon each defendant convicted of a criminal offense who appeals his conviction and posts a bond conditioned for his appearance, there is imposed a fee equal to two percent (2%) of the face value of each bond or Twenty Dollars (\$20.00), whichever is greater. If such defendant is released on his own recognizance pending his appeal, there is imposed a fee of

Twenty Dollars (\$20.00). The fee imposed by this subsection shall be imposed and shall be collected by the clerk of the court when the defendant posts a bond unless subsection (4) applies.

(4) If a defendant is found to be not guilty or if the charges against a defendant are dismissed, or if the prosecutor enters a nolle prosequi in the defendant's case or retires the defendant's case to the file, or if the defendant's conviction is reversed on appeal, the fees imposed pursuant to subsections (1), (2) (3) and (7) shall not be imposed.

(5) The State Auditor shall establish by regulation procedures providing for the timely collection, deposit, accounting and, where applicable, refund of the fees imposed by this section. The Auditor shall provide in the regulations for certification of eligibility for refunds and may require the defendant seeking a refund to submit a verified copy of a court order or abstract by which the defendant is entitled to a refund.

(6) It shall be the duty of the clerk or any officer of the court authorized to take bonds or recognizances to promptly collect, at the time such bonds or recognizances are received or taken, all fees imposed pursuant to this section. In all cases, the clerk or officer of the court shall deposit all fees so collected with the State Treasurer, pursuant to appropriate procedures established by the State Auditor, for deposit into the State General Fund.

Sources: Laws, 1990, ch. 329, § 2; Laws, 1994, ch. 495, § 15; Laws, 1995, ch. 371, § 1; Laws, 1999, ch. 364, § 1; Laws, 2009, ch. 463, § 1, eff from and after July 1, 200

MISSISSIPPI CODE

TITLE 99 CHAPTER 5 *BAIL*

SECTION:

- 99-5-1.** Form of bail; professional and soliciting bail agents to provide certain additional information; penalties.
- 99-5-3.** Form of Bail – taken in open court by entry on minutes.
- 99-5-5.** Bonds to be made payable to state; effect expiration and renewal.
- 99-5-7.** Fidelity or surety insurance company may give bail.
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- 99-5-15.** Duty of officer to release defendant from custody; approval of sureties.
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- 99-5-25.** Forfeiture of bond; Scire Facias.
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- 99-5-39.1.** Appearance bond as condition of any court ordered supervision; defendant's failure to appear as grounds for forfeiture of bond.

§ 99-5-1. Form of bail; professional and soliciting bail agents to provide certain additional information: penalties.

Bail may be taken in the following form, viz.:

"State of Mississippi,

_____ County.

We _____, principal, and _____ and _____, sureties, agree to pay the State of Mississippi _____ Dollars, unless the said _____ shall appear at the next term of the Circuit Court of _____ County, and there remain from day to day and term to term until discharged by law, to answer a charge of _____.

Signed _____

Approved _____

When the bail is for appearance before any committing court or a judge, the form may be varied to suit the condition. When a bond is taken from a professional bail agent, the following must be preprinted or stamped clearly and legibly on the bond form: full name of the professional bail agent, Department of Insurance license number, full and correct legal address of the professional bail agent and complete phone number of the professional bail agent. In addition, if the bond is posted by a limited surety professional bail agent, the name of the insurer, the legal address of the insurer on file with the department and phone number of the insurer must be preprinted or stamped, and a true and correct copy of an individual's power of attorney authorizing the agent to post such bond shall be attached.

If the bond is taken from a soliciting bail agent, the full name of the soliciting bail agent and the license number of such agent must be preprinted or stamped clearly and legibly along with all information required for a professional bail agent and a true and correct copy of an individual's power of attorney authorizing such soliciting bail agent to sign the name of the professional bail agent.

Any professional bail agent and/or soliciting bail agents who issue a bail bond that does not contain this required information may have their license suspended up to six (6) months and/or be fined not more than One Thousand Dollars (\$1,000.00) for the first offense, may have their license suspended up to one (1) year and/or be fined not more than Five Thousand Dollars (\$5,000.00) for the second offense and shall have their license permanently revoked if they commit a third offense.

The court of the clerk of the court shall notify the department when any professional bail agent or soliciting bail agent or insurer issues a bail bond that contains information that misleads a court about the proper delivery by personal service or certified mail of a writ of scire facias, judgment nisi or final judgment.

Sources: Codes, 1880, § 3049; 1892, § 1400A; Laws, 1906, § 1473; Hemingway's 1917, § 1231; 1930, § 1253; Laws, 1942, § 2496.

§ 99-5-3. Form of bail; taken in open court by entry on minutes.

Bail taken in open court may be entered on the minutes as follows, to wit:

"The State

No. _____ v.

A. B.

"Came the said A. B. and C. D. and E. F. and agreed to pay the state of Mississippi _____ dollars, unless the said A. B. shall appear at the present term of this court, and remain from day to day, and from term to term until discharged by law, to answer a charge of _____."

Sources: Codes, 1880, § 3049; 1892, § 1400a; Laws, 1906, § 1473; Hemingway's 1917, § 1231; Laws, 1930, § 1253; Laws, 1942, § 2496.

§ 99-5-5. Bonds to be made payable to state; effect; expiration and renewal.

All bonds and recognizance's taken for the appearance of any party, either as defendant, prosecutor, or witness in any criminal proceeding or matter, shall be made payable to the state, and shall have the effect to bind the accused and his sureties on the bond or recognizance until the principal shall be discharged by due course of law, and shall be in full force, from term to term, for a period of three (3) years, except that a bond returnable to the Supreme Court shall be in full force for a period of five (5) years. If it is necessary to renew a bond, it shall be renewed without additional premium. At the end of the applicable period, a bond or recognizance that is not renewed shall expire and shall be uncollectible unless the collection process was started on or before the expiration date of such bond or recognizance. Any bond or recognizance taken prior to July 1, 1996, shall expire on July 1, 1999. If a defendant is charged with multiple counts in one (1) warrant only one (1) bond shall be taken.

Sources: Codes, Hutchinson's 1848, ch. 65, art. 2(57); 1857, ch. 64, art. 291; 1871, § 2791; 1880, § 3040; 1892, § 1393; Laws, 1906, § 1465; Hemingway's 1917, § 1223; Laws, 1930, § 1245; Laws, 1942, § 2488; Laws, 1996, ch. 450, § 1; Laws, 1997, ch. 346, § 1, eff from and after July 1, 1997.

§ 99-5-7. Fidelity or surety insurance company may give bail.

Bail may be given to the sheriff or officer holding the defendant in custody, by a fidelity or surety insurance company authorized to act as surety within the State of Mississippi. Any such company may execute the undertaking as surety by the hand of officer or attorney authorized thereto by a resolution of its board of directors, a certified copy of which, under its corporate seal, shall be on file with the clerk of the circuit court and the sheriff of the county, and such authority shall be deemed in full force and effect until revoked in writing by notice to said clerk and sheriff.

Sources: Codes, Hutchinson's 1848, ch. 65, art. 12(2); 1857, ch. 64, art. 288; 1871, § 2788; 1880, § 3038; 1892, § 1391; Laws, 1906, § 1463; Hemingway's 1917, § 1221; Laws, 1930, § 1243; Laws, 1942, § 2486; Laws, 1960, ch. 267.

§ 99-5-9. Cash bail bond.

(1) In addition to any type of bail allowed by statute, any committing court, in its discretion, may allow any defendant, to whom bail is allowable, to deposit cash as bail bond in lieu of a surety or property bail bond, by depositing such cash sum as the court may direct with the sheriff or officer having custody of defendant, who shall receipt therefore and who shall forthwith deliver the said monies to the county treasurer, who shall receipt therefore in duplicate. The sheriff, or other officer, upon receipt of the county treasurer, shall forthwith deliver one (1) copy of such receipt to the committing court who shall then order the release of such defendant.

(2) The order of the court shall set forth the conditions upon which such cash bond is allowed and shall be determined to be the agreement upon which the bailee has agreed.

(3) The sums received by the county treasurer shall be deposited by him in a special fund to be known as "Cash Bail Fund," and shall be received by him subject to the terms and conditions of the order of the court.

(4) If the committing court authorizes bail by a cash deposit under subsection (1) of this section, but anyone authorized to release a criminal defendant allows the deposit of an amount less than the full amount of the bail ordered by the court, the defendant may post bail by a professional bail agent in an amount equal to one-fourth (1/4) of the full amount fixed under subsection (1) or the amount of the actual deposit whichever is greater.

Sources: Codes, Hutchinson's 1848, ch. 65, art. 12(2); 1857, ch. 64, art. 288; 1871, § 2788; 1880, § 3038; 1892, § 1391; Laws, 1906, § 1463; Hemingway's 1917, § 1221; Laws, 1930, § 1243; Laws, 1942, § 2486; Laws, 1960, ch. 267. Effective July 1, 2007

§ 99-5-11. Justices of the peace may take recognizance or bond; certificate of default; alias warrant. *[This code section, along with its municipal counterpart – Section 21-23-8, was amended this year in the 2023 session, SB 2298, so these sections appear as amended in the bill so the changes are more obvious.]*

[SECTION 2. *Section 99-5-11, Mississippi Code of 1972, is amended as follows:]*

99-5-11. (1) All justice court judges and all other conservators of the peace are authorized, whenever a person is brought before them charged with any offense not capital for which bail is allowed by law, to take the recognizance or bond of the person, with sufficient sureties, in such penalty as the justice court judge or conservator of the peace may require, for his appearance before the justice court judge or conservator of the peace for an examination of his case at some future day.

(2) (a) Financial conditions of bail shall not be set for the sole purpose of detaining the defendant. When bail is set, it is presumed that the amount of bail is both necessary to reasonably assure the safety of a victim, witness or general public and to guarantee the appearance of a defendant as required by the court. The amount of bail is also presumed to be attainable by the defendant. The presumption that bail is attainable by the defendant may be rebutted by the defendant who may file a motion to reduce or set aside the bail requirement with the court due to lack of financial means, which shall also consider the availability of a third-party support system to obtain the defendant's release. The court shall rule on any such motion within forty-eight (48) hours of the filing.

(b) In cases in which the defendant or his counsel asserts that the defendant is indigent and cannot afford the amount of bail, the justice court judge or conservator of the peace shall make a determination of whether the defendant can be released on recognizance, based on the standards enumerated in the Mississippi Rules of Criminal Procedure and any other factors considered relevant by the municipal judge. No misdemeanor defendant shall be incarcerated solely because the defendant cannot afford to post bail; nor shall a misdemeanor defendant be released solely because the defendant cannot afford bail. It is the duty of the justice court judge or conservator of the peace to ensure that release of the defendant does not jeopardize the community.

(c) The accused may waive an appearance before the judge and execute an appearance bond in an amount determined by the court from the bond guidelines set out in the Mississippi Rules of Criminal Procedure and agree to appear at a specified time and place.

(d) If the justice court judge or conservator of the peace is unavailable and has not otherwise provided for the setting of bail, it is lawful for any officer or officers designated by order of the justice court judge or conservator of the peace to take bond, cash, property or recognizance, with or without sureties, in the amount of the minimum bail specified in the bond guidelines set out in the Mississippi Rules of Criminal Procedure, payable to the county and conditioned for the appearance of the person on the return day and time of the writ before the court to which the warrant is returnable, or in cases of arrest without a warrant, on the day and time set by the court or officer for arraignment, and there remain from day to day and term to term until discharged.

(3) And if the person thus recognized or thus giving bond fails to appear at the appointed time, it shall be the duty of the justice court judge or conservator of the peace to return the recognizance or bond, with his certificate of default, to the court having jurisdiction of the case, and a recovery may be had therein by scire facias, as in other cases of forfeiture. The justice court judge or other conservator of the peace shall also issue an alias warrant for the defaulter.

(* * *4) In circumstances involving an offense against any of the following: (a) a current or former spouse of the accused or child of that person; (b) a person living as a spouse or who formerly lived as a spouse with the accused or a child of that person; (c) a parent, grandparent, child, grandchild or someone similarly situated to the accused; (d) a person who has a current or former dating relationship with the accused; or (e) a person with whom the accused has had a biological or legally adopted child, the justice court judge or other conservator of the peace shall check, or cause to be made a check, of the status of the person for whom recognizance or bond is taken before ordering bail in the

Mississippi Protection Order Registry authorized under Section 93-21-25, and the existence of a domestic abuse protection order against the accused shall be considered when determining appropriate bail.

(* * *5) After the court considers the provisions of subsection (2) of this section, a misdemeanor may be released on his or her own recognizance unless:

(a) The misdemeanor:

- (i) Is on probation or parole;
- (ii) Has other unresolved charges pending; or
- (iii) Has a history of nonappearance; or

(b) The court finds that:

(i) The release of the misdemeanor would constitute a special danger to any other person or to the community; or

(ii) Release of the misdemeanor on his or her own recognizance is highly unlikely to assure the appearance of the misdemeanor as required.

SECTION 3. This act shall take effect and be in force from and after July 1, 2023.

Sources: Codes, 1871, § 2874; 1880, § 3044; 1892, § 1397; Laws, 1906, § 1469; Hemingway's 1917, § 1227; Laws, 1930, § 1249; Laws, 1942, § 2492.

§ 99-5-13. Court may require additional bail.

When it shall appear to the committing court or the court before which any person charged with a criminal offense has given bail to appear is insufficient or excessive in any respect, the court may (i) after a hearing, order the issuance of a revised mittimus reducing the previously set bail; or (ii) order the issuance of process for the arrest of such person, and may, after a hearing, require him to give bail as may be ordered, and, in default thereof, may commit him to jail as in other cases.

Sources: Codes, 1880, § 3051; 1892, § 1402; Laws, 1906, § 1475; Hemingway's 1917, § 1233; Laws, 1930, § 1255; Laws, 1942, § 2498.

§ 99-5-15. Duty of officer to release defendant from custody; approval of sureties.

It is the duty of the sheriff or other officer having custody of such defendant, upon his compliance with the order of the committing court or officer, to release him from custody; and he shall approve the sureties on the bond, except admitted and authorized fidelity and surety insurance companies acting as surety, and for that purpose may examine them on oath, or take their affidavit in writing, and may administer such oath.

Sources: Codes, Hutchinson's 1848, ch. 65, art. 12(2); 1857, ch. 64, art. 288; 1871, § 2788; 1880, § 3038; 1892, § 1391; Laws, 1906, § 1463; Hemingway's 1917, § 1221; Laws, 1930, § 1243; Laws, 1942, § 2486; Laws, 1960, ch. 267.

§ 99-5-17. Sheriff to return bail-bond to clerk.

It is the duty of the sheriff taking a bail-bond to return the same to the clerk of the circuit court of the county in which the offense is alleged to have been committed on or before the first day of the next term thereof.

Sources: Codes, Hutchinson's 1848, ch. 65, art. 12(3); 1857, ch. 64, art. 289; 1871, § 2789; 1880, § 3039; 1892, § 1392; Laws, 1906, § 1464; Hemingway's 1917, § 1222; Laws, 1930, § 1244; Laws, 1942, § 2487.

§ 99-5-19. Person who takes insufficient bail-bond, etc., to stand special bail.

If any person, except a properly authorized judge, authorized to release a criminal defendant neglects to take a bail bond, or if the bail bond from any cause is insufficient at the time he took and approved the same, on exceptions taken and filed before the close of the next term, after the same should have been returned, and upon reasonable notice thereof to the person, he shall stand as special bail, and judgment shall be rendered against him as such, except when bond is tendered by fidelity or insurance company or professional bail agent or its bail agent authorized by Mississippi state license act as bail surety. The person taking and approving a bail bond from a fidelity or insurance company or professional bail agent or its bail agent with a valid Mississippi state license shall bear no financial liability on the bail bond in the event of a bail bond forfeiture or default.

Sources: Codes, Hutchinson's 1848, ch. 65, art. 12(3); 1857, ch. 64, art. 289; 1871, § 2789; 1880, § 3039; 1892, § 1392; Laws, 1906, § 1464; Hemingway's 1917, § 1222; Laws, 1930, § 1244; Laws, 1942, § 2487; Laws, 1997, ch. 335, § 1; Laws, 2004, ch. 363, § 2, eff from and after July 1, 2004.

§ 99-5-21. Bond good though it does not describe offense.

All bonds and recognizances taken in criminal cases, whether they describe the offense actually committed or not, shall have the effect to hold the party bound thereby to answer to such offense as he may have actually committed, and shall be valid for that purpose until he be discharged by the court.

Sources: Codes, 1857, ch. 64, art. 368; 1871, § 2873; 1880, § 3042; 1892, § 1395; Laws, 1906, § 1467; Hemingway's 1917, § 1225; Laws, 1930, § 1247; Laws, 1942, § 2490.

§ 99-5-23. Bonds, recognizances, etc., to be valid and binding whether or not properly taken or recited in return of officer.

All bonds, recognizance's, or acknowledgments of indebtedness, conditioned for the appearance of any party before any court or officer, in any state case or criminal proceeding, which shall have the effect to free such party from jail or legal custody of any sort, shall be valid and bind the party and sureties, according to the condition of such bond, recognizance, or acknowledgment, whether it was taken by the proper officer or under circumstances authorized by law

or not, or whether the officer's return identify it or not. It shall not be an objection to any bail-bond or recognizance that it is in the form of an acknowledgment before a court or officer and is without the signature of any person, or is without the endorsement of approval by any officer; but all persons who, by their acknowledgment before any officer of liability to pay a sum of money to the state if some person shall not appear before some court or officer in a criminal prosecution, procure the discharge from custody of such person, shall be bound accordingly upon the recognizance. An obligation signed by a person to obtain the discharge from custody of another shall not be invalid, if it have that effect, because it does not have endorsed on it the approval.

Sources: Codes, 1880, §§ 3041, 3050; 1892, §§ 1394, 1401; Laws, 1906, §§ 1466, 1474; Hemingway's 1917, §§ 1224, 1232; Laws, 1930, §§ 1246, 1254; Laws, 1942, §§ 2489, 2497.

§ 99-5-25. Forfeiture of bond; scire facias.

(1) (a) The purpose of bail is to guarantee appearance and a bail bond shall not be forfeited for any other reason.

(b) If a defendant in any criminal case, proceeding or matter fails to appear for any proceeding as ordered by the court, then the court shall order the bail forfeited and a judgment nisi and a bench warrant issued at the time of nonappearance. The clerk of the court shall notify the surety of the forfeiture by writ of scire facias, with a copy of the judgment nisi and bench warrant attached thereto, within ten (10) working days of such order of judgment nisi either by personal service or by certified mail. Failure of the clerk to provide the required notice within ten (10) working days shall constitute prima facie evidence that the order should be set aside. Any felony warrant issued by a court for nonappearance shall be put on the National Crime Information Center (NCIC) until the defendant is returned to custody.

(c) The judgment nisi shall be returnable for ninety (90) days from the date of issuance. If during such period the defendant appears before the court, or is arrested and surrendered, then the judgment nisi shall be set aside and a copy of the judgment that is set aside shall be served on the surety by personal service or certified mail. If the surety produces the defendant or provides to the court reasonable mitigating circumstances upon such showing, then the forfeiture shall not be made final. If the forfeiture is made final, a copy of the final judgment shall be served on the surety within ten (10) working days by either personal service or certified mail. Reasonable mitigating circumstances shall be that the defendant is incarcerated in another jurisdiction, that the defendant is hospitalized under a doctor's care, that the defendant is in a recognized drug rehabilitation program, that the defendant has been placed in a witness protection program and it shall be the duty of any such agency placing such defendant into a witness protection program to notify the court and the court to notify the surety, or any other reason justifiable to the court.

(d) Execution upon the final judgment shall be automatically stayed for ninety (90) days from the date of entry of the final judgment. If, at any time before execution of the final judgment, the defendant appears in court either voluntarily or in custody after surrender or arrest, the court shall on its own motion direct that the forfeiture be set aside and the bond exonerated as of the date the defendant first appeared in court.

(2) If a final judgment is entered against a surety licensed by the Department of Insurance and has not been set aside after ninety (90) days, or later if such time is extended by the court issuing the judgment nisi, then the court shall order the department to revoke the authority of the surety to write bail bonds. The commissioner shall, upon notice of the court, notify the surety within five (5) working days of receipt of revocation. If after ten (10) working days of such notification the revocation order has not been set aside by the court, then the commissioner shall revoke the authority of the surety and all agents of the surety and shall notify the sheriff of every county of such revocation.

(3) If within eighteen (18) months of the date of the final forfeiture the defendant appears for court, is arrested or surrendered to the court, or if the defendant is found to be incarcerated in another jurisdiction and a hold order placed on the defendant, then the amount of bail, less reasonable extradition cost, excluding attorney fees, shall be refunded by the court upon application by the surety.

Sources: Codes, Hutchinson's 1848, ch. 65, art. 5; 1857, ch. 64, art. 292; 1880, § 3043; 1892, § 1396; Laws, 1906, § 1468; Hemingway's 1917, § 1226; Laws, 1930, § 1248; Laws, 1942, § 2491; Laws, 1996, ch. 317, § 1; Laws, 1999, ch. 428, § 1; Laws, 2001, ch. 547, § 1; Laws, 2009, ch. 520, § 3, eff from and after July 1, 2009.

§ 99-5-27. Sureties may arrest and surrender principal; return of defendant out on bond.

(1) (a) "Surrender" means the delivery of the defendant, principal on bond, physically to the sheriff or chief of police or in his absence, his jailer, and it is the duty of the sheriff or chief of police, or his jailer, to accept the surrender of the principal when presented and such act is complete upon the execution of verbal or written surrender notice presented by a bail agent and shall relieve the bail agent of liability on the principal's bond.

(b) A bail agent may surrender the principal if the principal is found to be detained on another charge. If the principal is found incarcerated in another jurisdiction, the bail agent may surrender him by verbal or written notice of surrender to the sheriff or chief of police, or his jailer, of that jurisdiction and the notice of surrender shall act as a "Hold Order" and upon presentation of written surrender notice to the court of proper jurisdiction, the court shall order a "Hold Order" placed on the principal for the court and shall relieve the bail agent of liability on the principal's bond, with the provision that, upon release from incarceration in the other jurisdiction, return of the principal to the sheriff shall be the responsibility of the bail agent. The bail agent shall satisfy the responsibility to return a principal held by a "Hold Order" in another jurisdiction upon release from the other jurisdiction either by personally returning the principal to the sheriff at no cost to the county or, where the other jurisdiction will not release the principal to any person other than a law enforcement officer, by reimbursing to the county the reasonable cost of the return of the principal, not to exceed the cost that would be entailed if the first option were available.

(c) The surrender of the principal by the bail agent, within the time period provided in Section 99-5-25, shall serve to discharge the bail agent's liability to the State of Mississippi and any of its courts; but if this is done after forfeiture of the bond or recognizance, the court shall set aside the judgment nisi or final judgment upon filing of surrender notice by the bail agent.

(2) (a) A bail agent, at any time, may surrender the principal to any law enforcement agency or in open court in discharge of the bail agent's liability on the principal's bond if the law enforcement agency that was involved in setting the original bond approves of such surrender, to the State of Mississippi and any of its courts and at any time may arrest and transport its principal anywhere or may authorize another to do so, may be assisted by any law enforcement agency or its agents anywhere upon request of bail and may receive any information available to law enforcement or the courts pertaining to the principal for the purpose of safe surrender or for any reasonable cause in order to safely return the principal to the custody of law enforcement and the court.

(b) A bail agent, at any time, may arrest its principal anywhere or authorize another to do so for the purpose of surrender of the principal on bail bond. Failure of the sheriff or chief of police or his jailer, any law enforcement agency or its agents or the court to accept surrender by a bail agent shall relieve the bail agent of any liability on the principal's bond, and the bond shall be void.

(3) A bail agent, at any time, upon request by the defendant or others on behalf of the defendant, may privately interview the defendant to obtain information to help with surrender before posting any bail bond on behalf of the defendant. All licensed bail agents shall have equal access to jails or detention facilities for the purpose of such interviews, the posting of bail bonds and the surrender of the principal.

(4) Upon surrender, the court, after full review of the defendant and the pending charges, in open court, may discharge the prisoner on his giving new bail, but if he does not give new bail, he shall be detained in jail.

Sources: Codes, 1880, § 3045; 1892, § 1398; Laws, 1906, § 1470; Hemingway's 1917, § 1228; Laws, 1930, § 1250; Laws, 1942, § 2493; Laws, 1997, ch. 335, § 2; Laws, 1999, ch. 399, § 2, eff from and after July 1, 1999.

§ 99-5-29. Surety may cause arrest of principal by officer.

The sheriff or a constable in a proper case, upon the request of a surety in any bond or recognizance, and tender of the legal fee for executing a capias in a criminal case, and the production of a certified copy of the bond of recognizance, shall arrest, within his county, the principal in the bond or recognizance. The surety or his agent shall accompany the officer to receive the person.

Sources: Codes, 1880, § 3046; 1892, § 1399; Laws, 1906, § 1471; Hemingway's 1917, § 1229; Laws, 1930, § 1251; Laws, 1942, § 2494.

§ 99-5-31. Mittimus inailable cases to fix the bail.

When a defendant charged with a criminal offense shall be committed to jail by a court, judge, justice or other officer, for default in not giving bail, it is the duty of such court or officer to state in the Mittimus the nature of the offense, the county where committed, the amount of bail, and number of sureties required, and to direct the sheriff of the county where such party is ordered to be confined to release him, on his entering into bond as required by the order of the court or committing officer; and this shall apply to a case where, on habeas corpus, an order for bail may be made.

Sources: Codes, Hutchinson's 1848, ch. 65, art. 12(1); 1857, ch. 64, art. 287; 1871, § 2787; 1880, § 3037; 1892, § 1390; Laws, 1906, § 1462; Hemingway's 1917, § 1220; Laws, 1930, § 1242; Laws, 1942, § 2485.

§ 99-5-33. Accused committed to prison if injured party is dangerously wounded.

If a person be dangerously wounded the party accused shall be committed to prison until it be known whether the person wounded will recover or not, unless it appear to the court of inquiry that the case, in any event, would not amount to murder; in which case, or in the event that the person wounded do or will recover, the accused shall be dealt with as in other cases.

Sources: Codes, 1857, ch. 64, art. 283; 1871, § 2783; 1880, § 3036; 1892, § 1389; Laws, 1906, § 1461; Hemingway's 1917, § 1219; Laws, 1930, § 1241; Laws, 1942, § 2484.

§ 99-5-35. When prisoner charged with capital offense entitled to bail.

Any person having been twice tried on an indictment charging a capital offense, wherein each trial has resulted in a failure of the jury to agree upon his guilt or innocence, shall be entitled to bail in an amount to be set by the court.

Sources: Codes, 1942, § 2485.5; Laws, 1966, ch. 382, § 1, eff from and after passage (approved June 15, 1966).

§ 99-5-37. Domestic violence or knowing violation of domestic abuse protective order; required appearance before judge; considerations; conditions.

In any arrest for a misdemeanor, which is an act of domestic violence, as defined in Section 97-3-7, or for a knowing violation of a domestic abuse protective order issued pursuant to Section 93-21-1 et seq., no bail shall be granted until the person arrested has appeared before a judge of the court of competent jurisdiction. The defendant shall be brought before a judge at the first reasonable opportunity, not to exceed twenty-four (24) hours from the time of the arrest. In calculating the twenty-four (24) hours, weekends and holidays shall be included. The appearance may be by telephone. Upon setting bail in any case involving a misdemeanor which is an act of domestic violence or a knowing violation of a domestic abuse protective order, the judge shall give particular consideration to the exigencies of the case, including, but not limited to, (a) the potential for further violence, (b) the past history, if any, of violence between the defendant and alleged victim, (c) the level of violence of the instant offense, (d) any threats of further violence and (e) the existence of a domestic violence protection order prohibiting the defendant from engaging in abusive behavior, and shall impose any specific conditions as he or she may deem necessary. Specific conditions which may be imposed by the judge may include, but are not limited to, the issuance of an order prohibiting the defendant from contacting the alleged victim prior to trial, prohibiting the defendant from abusing or threatening the alleged victim or requiring defendant to refrain from drug or alcohol use. All such orders shall be reduced to writing and a certified copy of any such order shall

be provided at no cost to the arrested person upon his or her release, to the appropriate law enforcement agency, and to the victim of the alleged crime.

Sources: Laws, 1998, ch. 525, § 2, Laws, 2003, ch. 431, § 1; Laws, 2007, ch. 589, § 11; Laws, 2009, ch. 433, § 2, eff from and after July 1, 2009.

§ 99-5-39. Appearance bond as condition of any court ordered supervision; defendant's failure to appear as grounds for forfeiture of bond.

(1) As a condition of any probation, community control, payment plan for any fine imposed or any other court ordered supervision, the court may order the posting of a bond to secure the appearance of the defendant at any subsequent court proceeding or to otherwise enforce the orders of the court. The appearance bond shall be filed by a duly licensed professional bail agent with the court or with the sheriff who shall provide a copy to the clerk of court.

(2) The court may issue an order sua sponte or upon notice by the clerk or the probation officer that the person has violated the terms of probation, community control, court ordered supervision or other applicable court order to produce the defendant. The court or the clerk of court of the court shall give the bail agent a minimum of a seventy-two hour notice to have the defendant before the court. If the bail agent fails to produce the defendant in court or to the sheriff at the time noticed by the court or the clerk of court, the bond shall be forfeited according to the procedures set forth in Section 99-5-25. The defendant's failure to appear shall be the sole grounds for forfeiture of the appearance bond.

(3) The provisions of Sections 83-39-1 et seq. and 99-5-1 et seq. shall govern the relationship between the parties except where they are inconsistent with this section.

Sources: Laws, 2007, ch. 390, § 3; Laws, 2008, ch 420, § 1, eff from and after July 1, 2008.

TITLE 21
CHAPTER 23
SECTION 8
MUNICIPALITIES

§ 21-23-8

SECTION 1. Section 21-23-8, Mississippi Code of 1972, is amended as follows:

21-23-8. (1) (a) The purpose of bail is to guarantee appearance and a bail bond shall not be forfeited for any other reason.

(b) (i) If a defendant in any criminal case, proceeding or matter fails to appear for any proceeding as ordered by the municipal court, then the court shall order the bail forfeited and a judgment nisi and a bench warrant issued at the time of nonappearance. The clerk of the municipal court shall notify the surety of the forfeiture by writ of scire facias, with a copy of the judgment nisi and bench warrant attached thereto, within ten (10) working days of such order of judgment nisi either by personal service or by certified mail. Failure of the clerk to provide the required notice within ten (10) working days shall constitute prima facie evidence that the order should be set aside.

(ii) 1. The judgment nisi shall be returnable for ninety (90) days from the date of issuance. If during that period the defendant appears before the municipal court, or is arrested and surrendered, then the judgment nisi shall be set aside. If the surety produces the defendant or provides to the municipal court reasonable mitigating circumstances upon such showing, then the forfeiture shall not be made final. If the forfeiture is made final, a copy of the final judgment shall be served on the surety within ten (10) working days by either personal service or certified mail.

2. Reasonable mitigating circumstances shall be that the defendant is incarcerated in another jurisdiction; that the defendant is hospitalized under a doctor's care; that the defendant is in a recognized drug rehabilitation program; that the defendant has been placed in a witness protection program, in which case it shall be the duty of any agency placing the defendant into a witness protection program to notify the municipal court and the municipal court to notify the surety; or any other reason justifiable to the municipal court.

(2) If a final judgment is entered against a surety licensed by the Department of Insurance and has not been set aside after ninety (90) days, or later if such time is extended by the municipal court issuing the judgment nisi, then the municipal court shall order the department to revoke the authority of the surety to write bail bonds. The Commissioner of Insurance shall, upon notice of the municipal court, notify the surety within five (5) working days of receipt of the order of revocation. If after ten (10) working days of the notification the revocation order has not been set aside by the municipal court, then the commissioner shall revoke the authority of the surety and all agents of the surety and shall notify the sheriff of every county of such revocation.

(3) If within eighteen (18) months of the date of the final forfeiture the defendant appears for municipal court, is arrested or surrendered to the municipal court, or if the defendant is found to be incarcerated in another jurisdiction

and a hold order placed on the defendant, then the amount of bail, less reasonable extradition cost, excluding attorney fees, shall be refunded by the municipal court upon application by the surety.

(4) (a) The municipal judge shall set the amount of bail for persons charged with offenses in municipal court and may approve the bond or recognizance therefor.

(b) The court shall not set the financial conditions of bail solely for the purpose of detaining the defendant. When bail is set, it is presumed that the amount of bail is both necessary to reasonably assure the safety of a victim, witness or the general public and to guarantee the appearance of a defendant as required by the court. The amount of bail is also presumed to be attainable by the defendant. The presumption that bail is attainable by the defendant may be rebutted by the defendant who may file a motion to reduce or set aside the bail requirement with the court due to lack of financial means, which shall also consider the availability of a third-party support system to obtain the defendant's release. The court shall rule on any such motion within forty-eight (48) hours of the filing.

(c) If the defendant or his counsel asserts that the defendant is indigent and cannot afford the amount of bail, the municipal judge shall make a determination of whether the defendant can be released on recognizance, based on the standards enumerated in the Mississippi Rules of Criminal Procedure and any other factors considered relevant by the municipal judge. No misdemeanor defendant shall be incarcerated solely because the defendant cannot afford to post bail; nor shall a misdemeanor defendant be released solely because the defendant cannot afford bail. It is the duty of the municipal judge to ensure that release of the defendant does not jeopardize the community.

(d) The accused may waive an appearance before the judge and execute an appearance bond in an amount determined by the court from the bond guidelines set out in the Mississippi Rules of Criminal Procedure and agree to appear at a specified time and place.

(** *e) ** * If the municipal judge is unavailable and has not provided a bail schedule or otherwise provided for the setting of bail, it is lawful for any officer or officers designated by order of the municipal judge to take bond, cash, property or recognizance, with or without sureties, ** * in the amount of the minimum bail specified in the bond guidelines set out in the Mississippi Rules of Criminal Procedure, payable to the municipality and conditioned for the appearance of the person on the return day and time of the writ before the court to which the warrant is returnable, or in cases of arrest without a warrant, on the day and time set by the court or officer for arraignment, and there remain from day to day and term to term until discharged.

(f) In circumstances involving an offense against any of the following: (i) a current or former spouse of the accused or child of that person; (ii) a person living as a spouse or who formerly lived as a spouse with the accused or a child of that person; (iii) a parent, grandparent, child, grandchild or someone similarly situated to the accused; (iv) a person who has a current or former dating relationship with the accused; or (v) a person with whom the accused has had a biological or legally adopted child, the municipal judge shall check, or cause to be made a check of the status of the person for whom recognizance or bond is taken before ordering bail in the Mississippi Protection Order Registry

authorized under Section 93-21-25, and the existence of a domestic abuse protection order against the accused shall be considered when determining appropriate bail.

(* * *g) All bonds shall be promptly returned to the court, together with any cash deposited, and be filed and proceeded on by the court in a case of forfeiture. The chief of the municipal police or a police officer or officers designated by order of the municipal judge may approve bonds or recognizances.

(* * *h) All bonds and recognizances in municipal court where the municipal court shall have the jurisdiction to hear and determine the case may be made payable to the municipality and shall have the effect to bind the principal and any sureties on the bond or recognizance until they shall be discharged by due course of law without renewal.

Sources: Laws, 1979, ch. 401, § 5; Laws, 1988, ch. 564, § 2; Laws, 2001, ch. 547, § 2, eff from and after July 1, 2001

APPENDIX I

Powers of Attorney

Qualifying Power of Attorney (personal surety)	42
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Individual Power of Attorney (personal surety)	44
Individual Power of Attorney (limited surety)	45

Sample

CERTIFIED COPY

QUALIFYING POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That _____ d/b/a _____ a Professional Bondsmen, as licensed by the Commissioner of Insurance of Mississippi, license number _____ having his principal office at _____ Street, _____, Jackson, Mississippi, does hereby make, constitute, and appoint:

_____ in the city of _____, County of _____ State of Mississippi with limited authority, his true and lawful Agent and Attorney-in-Fact, with full power and authority hereby conferred, to sign, execute, acknowledge, and deliver for and on his behalf as Surety, and **IN HIS SIGNATURE** as Surety, subject to the limitations as herein set forth, and any and all papers and documents necessary or incidental to making Bail Bonds in Judicial Proceedings, but limited to criminal appearance bonds or appeal bonds in any State Court, County Court, Justice Court, or City Court not to exceed the amount of

ONE-HUNDRED THOUSAND DOLLARS (100,000)

PROVIDED individual power of attorney be attached to each bond executed, but may be detached by the approving officer, if desired.

The acknowledgement and execution of any such document by the said Attorney-in-Fact shall be as binding upon this company as if such Bond has been executed and acknowledged by _____, himself.

All authority hereby conferred shall expire and terminate without notice, at any time said Agents license is terminated by the Commissioner of Insurance.

IN WITNESS WHEREOF, _____ d/b/a _____ has caused these presents to be executed by himself on this _____ day of _____ 20 _____.

_____ BONDING COMPANY

By _____

State of Mississippi
County of Hinds

On this the _____ day of _____, 20 _____ before me, a Notary Public, personally appeared _____ who being by me duly sworn, acknowledged that he signed the above Power of Attorney, as owner of _____ BONDING COMPANY and acknowledged said instrument to be the voluntary act and deed of said _____

My Commission Expires _____

Notary Public, of Mississippi

Filed with the Clerk of the Circuit Court this the _____ day of _____, 20 _____ in the City of _____, County of _____, State of _____.

Clerk

QUALIFYING POWER ONLY - NOT TO BE USED FOR THE EXECUTION OF ANY BOND

THIS POWER IS VOID IF ALTERED OR ERASED

Sample

Certified Copy

A-Q 59933

QUALIFYING POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That _____ SURETY AND CASUALTY COMPANY, INC., A Florida Corporation, having its principal office at _____ Avenue, Suite _____, Florida _____ does hereby make, constitute and appoint

in the City of _____, County of _____, State of _____, with limited authority, its true and lawful Agent and Attorney-in-Fact, with full power and authority hereby conferred, to sign, execute, acknowledge, and deliver for and on its behalf as Surety, subject to the limitation as herein set forth, any and all papers and documents necessary or incidental to making of Bail Bonds in Judicial Proceedings, whether criminal or civil; supersedeas bonds, peace bonds, appeal bonds or any other kind of appearance bond in any State Court, County Court or Municipal Court, and in all U.S. Federal Courts, and all U.S. Federal Agencies, not to exceed the amount of

TWO HUNDRED THOUSAND DOLLARS (\$200,000.00)

PROVIDED an individual power of attorney be attached to each bond executed, but may be detached by the approving officer, if desired; OR PROVIDED, bond form, approved by the _____ SURETY AND CASUALTY COMPANY, INC. countersigned by an officer of the company (President, Vice-President, Secretary, Treasurer or Assistant Secretary) and approved as to form by the court or jurisdiction to which offered, is executed by said above-named lawful Agent and Attorney-in-Fact.

The acknowledgment and execution of any such document by the said Attorney-In-Fact shall be as binding upon this Company as if such bond has been executed and acknowledged by the regularly elected officers of this Company.

All authority hereby conferred shall expire and terminate without notice, at midnight on SEPTEMBER 30, 2009, _____ SURETY AND CASUALTY COMPANY, INC. further certifies that the following is a true and exact copy of a resolution of the Board of Directors of _____ SURETY AND CASUALTY COMPANY, INC., duly adopted and now in force, to wit: "All bonds of the Corporation shall be executed in the corporate name of the Company by the President, any Vice-President, Secretary, or any Assistant Secretary and they may appoint Attorneys-In-Fact or agents, who shall have authority to issue bonds in the name of the Company."

IN WITNESS WHEREOF, the said _____ SURETY AND CASUALTY COMPANY, INC. has caused these presents to be executed by its authorized officer the 15TH day of MAY, 2007.

Corporate Seal

_____ SURETY AND CASUALTY COMPANY, INC.

By _____
President or Vice President

State of Florida }
County of _____ } ss.

On this 15TH day of MAY, 2007, before me, a Notary Public, personally appeared the above named officer who is personally known to me, and, being duly sworn, acknowledged that he signed the above Power of Attorney as President or Vice President of the said _____ SURETY AND CASUALTY COMPANY, INC., and acknowledged said instrument to be the voluntary act and deed of said corporation.

Notary Public, State of Florida

QUALIFYING POWER ONLY - NOT TO BE USED FOR EXECUTION OF ANY BOND

THIS POWER VOID IF ALTERED OR ERASED

Power Amount
\$6,000.00

POWER OF ATTORNEY
(Personal Surety)

Power No. A45955

(Professional Agent) d/b/a _____ Bonding Company

HOME OFFICE: _____ St., Jackson, MS 39677

KNOW ALL MEN BY THESE PRESENTS: that (Professional Agent) d/b/a (company name), a Professional Bondsman, as licensed by the Commissioner of Insurance of Mississippi, License number _____, does constitute and appoint the below named agent its true and lawful attorney-in-fact is limited for him and in his name., place and stead, to execute seal and deliver for and on his behalf and as his act and deed, as surety, a bail bond only, authority of such attorney-in-fact is limited to appearance bonds and cannot be construed to guarantee for failure to provide payments, fines, wage law claims, on behalf of below named defendant.

This power is void if altered or erased. The obligation of (Professional Agent) shall not exceed the sum of **SIX THOUSAND (\$6,000.00) DOLLARS**

And provided this power-of-attorney is filed with the bond and retained as a part of the court records. The said attorney-in-fact is hereby authorized to insert in this power-of-attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF, (Professional bondsman name) has caused these presents to be signed by him, proper for purpose and his seal hereunto affixed this _____ day of _____ 20____.

Bond Amount _____ Appearance Date _____

_____ **Bonding Company**

Defendant _____

Professional Agents
Signature

Court _____ City _____

Offense _____

(Professional Agents name)
PROFESSIONAL BONDSMAN

Executing Agent _____

Power Amount
\$11,000.00

AB INSURANCE COMPANY
Property & Casualty, Insurance
266 Park Place Avenue, Home Town, MS 39000

Power No. **AB-0157494**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: that AB Insurance Company, Inc., a corporation duly organized and existing under the laws of the State of Mississippi, has made pursuant to a Code of By-Laws was adopted by the Directors of the said company on the 31st day of August, 1971 and is now in effect, does constitute and appoint, and by these presents does constitute and appoint the below named agent its true and lawful Attorney-in-fact for it and in his name., place and stead, to execute seal and deliver for an on its behalf and as its behalf and as its act and deed, as surety, a bail bond only. Authority of such attorney-in-fact is limited to **APPERANCE BONDS ONLY** and cannot be construed to guarantee payment to guarantee payment of fines, costs, alimony, wage claims, or any other finical obligation, nor delivery or immigration bonds on behalf of below named.

This power of attorney is void if altered or erased. The obligation of the company shall not exceed the sum of **ELEVEN THOUSAND (\$11,000.00) DOLLARS**

proper for the purpose and its seal hereunto affixed this _____ day of _____ 20____.

Bond Amount _____ Appearance Date _____

AB SURETY AND CASUALTY CO., INC.

Defendant _____

Company Presidents
Signature

Court _____ City _____

Offense _____

**(Presidents name)
PRESIDENT**

Executing Agent _____

APPENDIX II

Court Forms

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IN THE _____ COURT OF _____ COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

PLAINTIFF

VERSUS

CAUSE NO. _____

DEFENDANT

JUDGMENT NISI

Now comes the _____ Attorney who prosecutes for and on behalf of the State of Mississippi, and Defendant _____ being called to answer a charge of _____ came not but wholly made default. Where upon _____ Surety on Defendant's bond being called to bring with it the body of said Defendant came not but wholly made default.

IT IS THEREFORE ORDERED AND ADJUDGED, that the State of Mississippi do have and recover of and from the Defendant and the Surety on said Defendant's bond the sum of _____ and that Scire Facias issue commanding the said Surety to appear on the _____ day of _____, 20_____ to show cause why this Judgment should not be made final.

ORDERED AND ADJUDGED this the _____ day of _____, 20_____.

JUDGE

_____ COURT

}

ON

FORFEITED BAIL BOND

TO ANY LAWFUL OFFICER OF THE STATE OF MISSISSIPPI:

WHEREAS, _____, defendant and principal, was bailed to appear in the _____ Court of said County on the charge of _____ and there attend from day to day until discharged by said Court and being called, came not, but wholly failed; and _____, his sureties on his said bond being called to bring the body of said defendant and principal into Court, wholly failed; and

WHEREUPON, judgment nisi was entered by the said Court that the said County recover of and from the said defendant and sureties jointly and severally the sum of _____ Dollars, unless the severally appear in said Court and show good cause to the contrary;

THEREFORE, you are hereby ordered to summons the said defendant and/or his sureties by service of this writ thereon to personally appear before said Court, on the _____ day of _____, 20_____, at _____ m, in _____ Court of said County to show sufficient cause, if any they can, why said judgment should not be made final and failing thereunto or failing to deliver the said defendant into custody of the law officer of said County by said date, the aforesaid judgment will be made final and will be proceeded thereon according to law.

The officer's return of service is due 14 days from the date of this writ.

This _____ day of _____, 20_____.

(SEAL)

CLERK

OFFICER'S RETURN

I have this day executed the within writ personally, by delivering to the named respondent(s) _____ a true copy of this writ.

This _____ day of _____, 20_____.

_____ OFFICER

IN THE _____ COURT OF _____ COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

PLAINTIFF

VERSUS

CAUSE NO. _____

DEFENDANT

Surety

ORDER SETTING ASIDE JUDGMENT NISI

For proper reason shown to the court herein, the Judgment Nisi and/or Final Judgment previously entered on the _____ day of _____, 20_____, in the above referenced and numbered cause is hereby set aside and the bail bond written on the _____ day of _____, 20_____, bearing power number _____ is held for naught.

ORDERED AND ADJUDGED this the _____ day of _____, 20_____.

JUDGE

REASON FOR SETTING JUDGMENT ASIDE: _____

IN THE _____ COURT OF _____ COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

PLAINTIFF

VERSUS

CAUSE NO. _____

DEFENDANT

FINAL JUDGMENT

This cause came on to be heard on the Judgment Nisi heretofore entered herein upon which a Scire Facias was issued, commanding that _____, license number _____, as surety, show cause why said Judgment Nisi shall not be made absolute and final execution issued thereon and it appeared that _____, surety, had been duly and properly served with said Scire Facias and Judgment Nisi and was called thrice and came not, nor produced the body of its principal as by its bond it was required to do and is wholly in default upon said Judgment Nisi and therefore said Judgment Nisi should be made final.

It is, therefore, considered and so ordered by this Court that the State of Mississippi do have and recover judgment of and against _____, surety, in the sum of \$_____ for which let execution issue.

ORDERED AND ADJUDGED this the _____ day of _____, 20_____.

JUDGE

IN THE _____ COURT OF _____ COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI
VERSUS

CAUSE NO. _____

APPLICATION FOR EXTENSION OF TIME

Comes now _____ Surety for Defendant applies to the Court for an Order Granting an Extension of Time and thereby delaying Final Judgment as provided by Section 83-39-7, Mississippi Code of 1972, as amended, and as support therefore, would show the following to wit:

1.

_____, Defendant in this Court on a charge of _____, failed to appear for a noticed Court appearance on the _____ day of _____, 20 _____. Pursuant to said default Defendant's appearance bond in the amount of \$ _____ was ordered forfeited by all proper writs of Scire Facias and judgment nisi.

2.

_____, Surety of Defendant has presented the Court with proof that Defendant is _____.

AS SHOWN BY DOCUMENTATION ATTACHED TO APPLICATION.

Should Defendant have to be transported to this jurisdiction from outside the State of Mississippi, said Surety agrees to pay all costs of transporting said Defendant to this jurisdiction.

Respectfully submitted:

IN THE _____ COURT OF _____ COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS.

CAUSE NUMBER _____

ORDER GRANTING EXTENSION OF TIME TO DELAY FINAL JUDGMENT

This day this cause came on to be heard on the Application of _____ Surety for Defendant on a final judgment nisi for default of Defendant’s appearance before this Court for an order granting an extension of time and thereby delaying final judgment of forfeiture, and the Court having heard and considered the same, finds that:

1.

_____, Defendant in this Court on a charge of _____, failed to appear for a noticed Court appearance on the _____ day of _____, 20_____. Pursuant to said default Defendant’s appearance bond in the amount of \$_____ was ordered forfeited by all proper writs of Scire Facias and judgment nisi.

2.

_____, Surety of Defendant has presented the Court with proof that Defendant is _____

AS SHOWN BY DOCUMENTATION ATTACHED TO APPLICATION.

Should Defendant have to be transported to this jurisdiction from outside the State of Mississippi, said Surety agrees to pay all costs of transporting said Defendant to this jurisdiction. The Surety is therefore entitled to an extension of time before final judgment nisi.

IT IS, THEREFORE ORDERED AND ADJUDGED that the Surety in this cause is granted an extension until or on about the _____ day of _____, 20_____ before entry of final judgment nisi.

SO ORDERED AND ADJUDGED, this the _____ day of _____, 20_____.

JUDGE

IN THE _____ COURT OF _____ COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS.

_____ CAUSE NO. _____

ORDER SATISFYING AND CANCELLING FINAL JUDGMENT NISI

FOR PROPER RESAON SHOWN TO THE COURT HEREIN, THE FINAL JUDGMENT NISI PREVIOUSLY ENTERED ON THE _____ DAY OF _____, 20___ IN THE ABOVE- STYLED AND NUMBERED CASUE IS HEREBY CANCELLED, SAID BOND HAVING BEEN SATISFIED IN FULL PAYMENT OF \$ _____ BY _____.

AS SHOWN BY DOCUMENTATION ATTACHED HERETO AS “EXHIBIT 1”.

ORDERED AND ADJUDGED THIS THE _____ DAY OF _____, 20_____.

JUDGE

REQUESTED BY: _____

IN THE _____ COURT OF _____ COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

PLAINTIFF

VERSUS

CAUSE NO. _____

DEFENDANT

ORDER FOR REVOCATION OF THE QUALIFICATION BOND

THIS DAY this cause came on to be heard upon the motion, **ore tenus**, of the State of Mississippi, by and through the office of the District Attorney, pursuant to Section 83-39-7 of the Mississippi Code of 1972, as amended, seeking to declare that the final judgment against the principal and sureties on the bond entered by the _____ Court of _____ County, Mississippi, on the _____ day of _____, 20_____, in the above styled and numbered cause against the defendant, _____, and _____

Professional Bondsman, license number _____, in the amount of \$_____ which is currently outstanding and further that the said \$_____ has not been paid within the ninety (90) day statutory period, and that the qualification bond of said professional bondsman, _____ license number _____, should be forfeited and the license revoked, and this Court being fully advised in all the premises is of the opinion that said motion is well taken and should be sustained.

IT IS THEREFORE, ORDERED AND ADJUDGED that the qualification bond of Professional Bondsman _____ should be and is hereby, forfeited in the amount of \$_____, and that the Commissioner of Insurance is ordered and directed to satisfy the same out of the qualification bond on file in his office, and that he should further revoke the license of said Professional Bondsman _____, license number _____ to act as surety on any further bail or recognizance.

SO ORDERED AND ADJUDGED on this the _____ day of _____, 20_____.

JUDGE

IN THE _____ COURT OF _____ COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

PLAINTIFF

VERSUS

CAUSE NO. _____

DEFENDANT

ORDER FOR REVOCATION OF LICENSE

THIS DAY this cause came on to be heard upon the motion, ore tenus, of the State of Mississippi, by and through the office of the District Attorney, pursuant to Section 83-39-7 of the Mississippi Code of 1972, as amended, seeking to declare that the final judgment against the principal and sureties on the bond entered by the _____ Court of _____ County, Mississippi, on the ____ day of _____, 20_____, in the above styled and numbered cause against the defendant, _____, and _____ Professional Bondsman, License number _____ and the insurer, _____ in the amount of \$_____ which is currently outstanding and further that the said \$_____ has not been paid within the ninety (90) day statutory period and that the license of said Professional Bondsman, _____ license number _____, should be revoked, and the Mississippi Insurance Department should take action against the Insurer to require payment of such bond, and this Court being fully advised in all the promises is of the opinion that said motion is well taken and should be sustained.

IS IT THEREFORE, ORDERED AND ADJUDGED that the License of Professional Bondsman _____ should be and is hereby revoked, and that the Commissioner of Insurance is ordered and directed to revoke the license of said Professional Bondsman on file in his office and that the license shall remain revoked until such time as the judgment of \$_____ is said and that the Professional Bondsman shall not act as surety on any further bail or recognizance, and that the Mississippi Department of Insurance is ordered to recover such judgment amount against the Insurer.

SO ORDERED AND ADJUDGED on this the _____ day of _____, 20____.

JUDGE

IN THE _____ COURT OF _____ COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

PLAINTIFF

VERSUS

CAUSE NO. _____

DEFENDANT

Surety

ORDER SETTING ASIDE REVOCATION

For proper reason shown to the court herein, the Judgment Nisi, Final Judgment, and Revocation Order previously entered on the _____ day of _____, 20_____, in the above referenced and numbered cause is hereby set aside and the bail bond written on the _____ day of _____, 20_____, bearing power number _____ is held for naught.

ORDERED AND ADJUDGED this the _____ day of _____, 20_____.

JUDGE

REASON FOR SETTING JUDGMENT ASIDE: _____

IN THE _____ COURT OF _____ COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

PLAINTIFF

VERSUS

CAUSE NO. _____

DEFENDANT

APPLICATION FOR REMISSION OF BOND

COMES NOW _____ Surety for Defendant, and applied to the Court for an Order for Remission of Bond in such amount as the Court deem just and proper as provided by Section 83-39-7, Mississippi Code, 1972, as amended, and as support therefore, would show the following, to wit:

1. Final Judgment on said bond was entered on the _____ day of _____ 20____
2. Said bond was satisfied in full payment of the sum of \$ _____ on the _____ day of _____, 20____;
3. Eighteen months since the date of final judgment has not elapsed;
4. _____ Surety of Defendant has presented the Court with proof that: _____

SEE DOCUMENTATION ATTACHED HERETO AS "EXHIBIT 1".

Respectfully submitted,

IN THE _____ COURT OF _____ COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

PLAINTIFF

VERSUS

CAUSE NO. _____

DEFENDANT

ORDER FOR REMISSION OF BOND

THIS DAY THIS CAUSE came on to be heard on the Application of _____

Surety for Defendant, and applied to the Court for an Order for Remission of Bond in such amount as the Court deem just and proper as provided by Section 83-39-7, Mississippi Code, 1972, as amended, and as support therefore, would show the following, to wit:

1. Final Judgment on said bond was entered on the _____ day of _____, 20____
2. Said bond was satisfied in full payment of the sum of \$ _____ on the _____ day of _____, 20_____;
3. Eighteen months since the date of final judgment has not elapsed;
4. _____ Surety of Defendant, has presented the Court with proof that: _____

SEE DOCUMENTATION ATTACHED HERETO AS "EXHIBIT 1".

5. _____, Surety, is entitled to remission of said bond in the amount of \$ _____.

IT IS THEREFORE ORDERED AND ADJUDGED that remission of said bond be made in the sum of \$ _____ to said Surety.

ORDERED AND ADJUDGED this _____ day of _____ 20____.

JUDGE

IN THE CIRCUIT COURT OF _____ COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI
VERSUS

CAUSE NO. _____

DEFENDANT

NOTICE OF SURRENDER OF PRINCIPAL/DEFENDANT INCARCERATED IN FOREIGN JURISDICTION

Comes now _____, bail agent for the hereinbefore named Principal/Defendant and hereby informs the Court that said Principal/Defendant was incarcerated on the _____ day of _____, 20____, in the _____ jail located in _____ on a charge of or for the reason _____

_____ and requests the Court to forthwith place a Hold Order on said Principal/Defendant and release said bail agent from liability on the bond posted by said bail agent for and on behalf of said Principal/Defendant.

Bail Agent

Print Name Telephone

FOR: _____

**NOTICE OF SURRENDER OF DEFENDANT BY BAIL
BOND SURETY**

STATE OF MISSISSIPPI

VS

Case No.: _____

TO: _____

County: _____

Please take notice that _____ **d/b/a** _____ ,
as bail bond surety for _____ hereby physically surrenders
said principal-defendant unto your custody per Section 99-5-27, Mississippi Code of
1972, as amended.

Charges: _____

Amount of Bond: _____ Date Bail Posted: _____

Reason for Surrender: _____

NOTICE TO JAIL: This "SURRENDER" shall act as a "HOLD ORDER" for this prisoner
pending further action by the Court.

This the ____ day of _____, 20____.

Attorney-in-fact

Recorded this the _____ day of _____, 20____.

BY: _____

TITLE _____

County: _____

City: _____ State: _____

This book is provided by the:

MISSISSIPPI BAIL AGENTS ASSOCIATION
Post Office Box 2689
JACKSON MS, MISSISSIPPI 39207-2689

Phone: 601-899-8599

Email: mbaa@msbail.org

Website: www.msbail.org

Additional copies of the Court Procedures Manual may be found on our website under the resources section.