**South Carolina General Assembly**

121st Session, 2015-2016

**H. 3863**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Tallon, Bannister and Quinn

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Companion/Similar bill(s): 797

Introduced in the House on March 18, 2015

Currently residing in the House Committee on **Judiciary**

Summary: Bail Bondsmen

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/18/2015 House Introduced and read first time ([House Journal‑page 41](file:///h:\HJ%20Archive\2015\03-18-15.docx))

3/18/2015 House Referred to Committee on **Judiciary** ([House Journal‑page 41](file:///h:\HJ%20Archive\2015\03-18-15.docx))

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**VERSIONS OF THIS BILL**

[3/18/2015](file:///p:\pprever\2015-16\3863_20150318.docx)

**A** **BILL**

TO AMEND SECTION 38‑53‑170, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROHIBITED BAIL BONDSMEN ACTIONS, SO AS TO REVISE THE MINIMUM FEE THAT MUST BE CHARGED AND COLLECTED BEFORE A BONDSMAN MAY EXECUTE A BOND, TO PROVIDE A BONDSMAN MAY ENTER A PAYMENT AGREEMENT BY COMPLYING WITH CERTAIN REQUIREMENTS, TO REVISE REQUIREMENTS FOR THE RETURN OF COLLATERAL BY A BONDSMAN, AND TO REQUIRE BONDSMEN TO PROVIDE CERTAIN NOTICE BEFORE CONVERTING COLLATERAL TO CASH AND REQUIRING BONDSMEN TO RETURN MONEY RECEIVED FROM THE CONVERSION THAT EXCEEDS THE FINAL JUDGMENT OR CONSENT AMOUNT, LESS REASONABLE FEES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 38‑53‑170 of the 1976 Code is amended to read:

“Section 38‑53‑170. No bondsman or runner may:

(a) pay a fee or rebate or give or promise anything of value, directly or indirectly, to a jailer, law enforcement officer, committing magistrate, or any other person who has power to arrest or hold in custody, or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or the forfeiture of the bail bond, including the payment to the law enforcement officers, directly or indirectly, for the arrest or apprehension of a principal or principals who have caused a forfeiture;

(b) pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(c) pay a fee or rebate or give or promise anything of value to the principal or anyone in his behalf;

(d) participate in the capacity of an attorney at a trial or hearing of one on whose bond he is surety, nor suggest or advise the employment of or name for employment any particular attorney to represent the principal;

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of ~~twenty‑five~~ one hundred dollars or ten percent, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars or five percent, whichever is greater, of the face amount of the bond. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed. If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current. If no payment is received by the end of the notice period, the bondsman must surrender the principal to the proper detention facility for holding and file a motion to be relieved as provided in Section 38‑53‑50(A) or (B), at which time the agreement must be accelerated and the balance paid in full before or at the motion hearing for the principal to be rereleased on bond. The bondsman may accept collateral security or other indemnity from the principal which must be returned ~~upon~~ within ten days after final termination of liability on the bond unless a bench warrant has been issued. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal’s disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. If the bond is forfeited, a bondsman may not convert collateral described in the collateral receipt to cash until he has provided a ten‑day notice of this pending conversion to the depositor. This notice must be sent by certified mail to the last known address of the depositor. After the conversion, the bondsman must disclose the actual amount received to the depositor and must return any amount received that exceeded the final judgment or consent amount, less any reasonable expenses. These reasonable expenses include apprehension and legal costs incurred as a result of the bond. The bondsman must provide the depositor copies of all receipts and, if applicable, the overage money within three days after settlement;

(f) solicit business in any of the courts or on the premises of any of the courts of this State, in the office of any magistrate, or in or about any place where prisoners are confined. Law enforcement officers and jailers shall report any violations of this provision to the court. Any action taken pursuant to this provision resulting in a conviction, guilty plea, or plea of nolo contendere pursuant to Section 38‑53‑340 must be reported to the director or his designee by the court within thirty days; or

(g) advise or assist the principal for the purpose of forfeiting bond.”

SECTION 2. This act takes effect upon approval by the Governor.

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