

House Bill 1007

By: Representative Randall of the 107th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds
2 and recognizances, so as to change certain provisions relating to sureties and bond forfeiture
3 proceedings; to change provisions relating to surety fees; to change provisions relating to
4 releasing a surety from liability; to change provisions relating to qualifications for
5 professional bondsmen; to change provisions relating to a bondsman's compensation; to
6 change provisions relating to when bond forfeiture occurs; to change provisions relating to
7 conditions not warranting forfeiture of bond for failure to appear and remission of forfeiture;
8 to provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds and
12 recognizances, is amended by striking subsection (a) of Code Section 17-6-30, relating to
13 fees of sureties, and inserting in lieu thereof the following:

14 "(a) Sureties on criminal bonds in any court shall not charge or receive more than 12
15 percent of the ~~principal~~ total amount of bonds set in the amount of \$10,000.00 or less and
16 shall not charge or receive more than 15 percent of the ~~principal~~ total amount of bonds set
17 in an amount in excess of \$10,000.00 as compensation from defendants or from anyone
18 acting for defendants. Sureties may charge a minimum fee of \$99.00 on any bond."

19 style="text-align:center">**SECTION 2.**

20 Said chapter is further amended by striking paragraph (2) of subsection (d) of Code Section
21 17-6-31, relating to surrender of principal by surety and bond forfeiture, and inserting in lieu
22 thereof the following:

23 "(2) Furthermore, the surety may be released from liability at the discretion of the court
24 if:

- 1 (A) The principal used a false name when he or she was bound over and committed to
 2 jail or a correctional institution and was subsequently released from such facility unless
 3 the surety knew or should have known that the principal used a false name; ~~and~~ or
 4 (B) The surety shows to the satisfaction of the court that he or she acted with due
 5 diligence and used all practical means to secure the attendance of the principal before
 6 the court."

7 **SECTION 3.**

8 Said chapter is further amended by striking paragraph (3) of subsection (b) of Code Section
 9 17-6-50, relating to persons deemed professional bondsmen and criminal background
 10 investigations, and inserting in lieu thereof the following:

11 "~~(3) Is a person of good moral character and has~~ Has not been convicted of a felony or
 12 any crime involving ~~moral turpitude~~ fraud, dishonesty, or breach of trust; and"

13 **SECTION 4.**

14 Said chapter is further amended by striking subsection (a) of Code Section 17-6-54, relating
 15 to a surety's compensation, when sums are to be returned to a defendant, and the right to
 16 surrender the defendant, and insert in lieu thereof the following:

17 "(a) No professional bondsman or his or her agents or employees who receive
 18 compensation for becoming the surety on a criminal bond shall thereafter receive any other
 19 sum in the case as compensation for the bond. If the surety surrenders a defendant into the
 20 custody of the court, the sheriff, or another law enforcement officer in the jurisdiction
 21 where the bond was made before final disposition of the case, the surety is required to
 22 return to the principal the compensation received for signing the bond as surety if such
 23 surrender of the defendant is for reasons other than:

- 24 (1) The defendant's arrest for a crime other than a traffic violation or misdemeanor;
 25 (2) The defendant's cosigner attests in writing the desire to be released from the bond;
 26 (3) The defendant fails to provide to the court and the surety the defendant's change of
 27 address;
 28 (4) The defendant fails to pay any fee due to the surety after being notified by certified
 29 mail or statutory overnight delivery that the same is past due;
 30 (5) The defendant fails to notify the court and the surety upon leaving the jurisdiction of
 31 the court; or
 32 (6) The defendant provides false information to the surety."

1 jurisdiction over the case along with a letter of intent to pay all costs of returning the
 2 principal to the jurisdiction of the court, such notice and letter shall serve as the surety's
 3 request for a detainer or hold to be placed against the principal. Should there be a failure
 4 to place a detainer or hold within ~~15~~ seven days, ~~excluding~~ including Saturdays, Sundays,
 5 and legal holidays, and after presentation of such notice and letter of intent to pay costs, the
 6 surety shall then be relieved of the liability for the appearance bond without further order
 7 of the court.

8 (d)(1) In cases in which ~~paragraph (3)~~ subparagraph (C) of this subsection paragraph is
 9 not applicable, on application filed within 120 days from the payment of judgment, the
 10 court shall order remission under the following conditions:

11 ~~(H)~~(A) Provided the bond amount has been paid within 120 days after judgment and
 12 the delay has not prevented prosecution of the principal and upon application to the
 13 court with prior notice to the prosecuting attorney of such application, said court shall
 14 direct remission of 95 percent of the bond amount remitted to the surety if the surety
 15 locates the principal in the custody of the sheriff in the jurisdiction where the bond was
 16 made or in another jurisdiction causing the return of the principal to the jurisdiction
 17 where the bond was made, apprehends, surrenders, or produces the principal, if the
 18 apprehension or surrender of the principal was substantially procured or caused by the
 19 surety, or if the location of the principal by the surety caused the adjudication of the
 20 principal in the jurisdiction in which the bond was made. Should the surety, within two
 21 years of the principal's failure to appear, locate the principal in the custody of the
 22 sheriff in the jurisdiction where the bond was made or in another jurisdiction causing
 23 the return of the principal to the jurisdiction where the bond was made, apprehend,
 24 surrender, or produce the principal, if the apprehension or surrender of the principal is
 25 substantially procured or caused by the surety, or if the location of the principal by the
 26 surety causes the adjudication of the principal in the jurisdiction in which the bond was
 27 made, the surety shall be entitled to a refund of 50 percent of the bond amount. The
 28 application for 50 percent remission shall be filed no later than 30 days following the
 29 expiration of the two-year period following the date of judgment;

30 ~~(2)~~(B) Remission shall be granted upon condition of the payment of court costs and of
 31 the expenses of returning the principal to the jurisdiction by the surety; or

32 ~~(3)~~(C) If, within 120 days after judgment, the surety surrenders the principal to the
 33 sheriff or responsible law enforcement officer, or said surrender has been denied by the
 34 sheriff or responsible law enforcement officer, or surety locates the principal in custody
 35 in another jurisdiction, the surety shall only be required to pay costs and 5 percent of
 36 the face amount of the bond, which amount includes all surcharges. If it is shown to the
 37 satisfaction of the court, by the presentation of competent evidence from the sheriff or

1 the holding institution, that said surrender has been made or denied or that the principal
2 is in custody in another jurisdiction or that said surrender has been made and that 5
3 percent of the face amount of the bond and all costs have been tendered to the sheriff,
4 the court shall direct that the judgment be marked satisfied and that the writ of
5 execution, fi. fa., be canceled.

6 (2) Judgments issued to satisfy forfeitures of appearance bonds shall accrue no legal
7 interest nor shall the appearance bond be due and payable until the one hundred twentieth
8 day after being issued."

9 **SECTION 7.**

10 All laws and parts of laws in conflict with this Act are repealed.