

House Bill 1007

By: Representative Randall of the 107<sup>th</sup>

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:

**SECTION 1.**

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

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

**SECTION 2.**

18 Said chapter is further amended by striking paragraph (2) of subsection (d) of Code Section  
19 17-6-31, relating to surrender of principal by surety and bond forfeiture, and inserting in lieu  
20 thereof the following:

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

- 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.