

The House Committee on Judiciary Non-Civil offers the following substitute to HB 1183:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 17-6-72 of the Official Code of Georgia Annotated, relating to
2 conditions not warranting forfeiture of bond for failure to appear and remission of forfeiture,
3 so as to clarify bond forfeiture conditions; to provide for related matters; to repeal conflicting
4 laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Code Section 17-6-72 of the Official Code of Georgia Annotated, relating to conditions not
8 warranting forfeiture of bond for failure to appear and remission of forfeiture, is amended
9 by revising subsections (d) and (e) as follows:

10 "(d) In cases in which subsection (e) of this Code section is not applicable, ~~on application~~
11 ~~filed within 120 days from the payment of judgment~~, the court shall order remission under
12 the following conditions:

13 (1) Provided the bond amount has been paid within 120 days after entry of the judgment
14 and the delay has not prevented prosecution of the principal and upon application ~~to the~~
15 ~~court~~ filed within 120 days from the payment of judgment with prior notice to the

16 prosecuting attorney of such application, said court shall direct remission of 95 percent
17 of the bond amount remitted to the surety if the principal is produced or otherwise
18 appears before the court that has jurisdiction of the bond within such 120 day period
19 following payment of the judgment:-

20 (2) Provided the bond amount has been paid within 120 days after the entry of judgment
21 and the delay has not prevented prosecution of the principal, should ~~Should~~ the surety,
22 within two years of the principal's failure to appear, locate the principal in the custody of
23 the sheriff in the jurisdiction where the bond was made or in another jurisdiction causing
24 the return of the principal to the jurisdiction where the bond was made, apprehend,
25 surrender, or produce the principal, if the apprehension or surrender of the principal is
26 substantially procured or caused by the surety, or if the location of the principal by the
27 surety causes the adjudication of the principal in the jurisdiction in which the bond was
28 made, the surety shall be entitled to a refund of 50 percent of the bond amount. The
29 application for 50 percent remission shall be filed no later than 30 days following the
30 expiration of the two-year period following the date of judgment; or

31 ~~(2)~~(3) Remission shall be granted upon condition of the payment of court costs and of
32 the expenses of returning the principal to the jurisdiction by the surety.

33 (e)(1) If, within 120 days from ~~payment~~ entry of the judgment, the surety surrenders the
34 principal to the sheriff or responsible law enforcement officer, or said surrender has been
35 denied by the sheriff or responsible law enforcement officer, or the surety locates the
36 principal in custody in another jurisdiction, the surety shall only be required to pay costs
37 and 5 percent of the face amount of the bond, which amount includes all surcharges. If
38 it is shown to the satisfaction of the court, by the presentation of competent evidence
39 from the sheriff or the holding institution, that said surrender has been made or denied
40 or that the principal is in custody in another jurisdiction or that said surrender has been
41 made and that 5 percent of the face amount of the bond and all costs have been tendered

42 to the sheriff, the court shall direct that the judgment be marked satisfied and that the writ
43 of fieri facias be canceled.

44 (2)(A) The court shall direct that the judgment be marked satisfied and that the writ of
45 fieri facias be canceled, if within 120 days from payment entry of the judgment, the
46 surety:

47 (i) Tenders an amount equal to 5 percent of the face amount of the bond and all costs
48 to the sheriff; and

49 (ii) Provides, in writing, the court and the prosecuting attorney for the court that has
50 jurisdiction of the bond with competent evidence giving probable cause to believe that
51 the principal is located in another jurisdiction within the United States and states that
52 it will provide for the reasonable remuneration for the rendition of the principal, as
53 estimated by the sheriff; and

54 (B) The prosecuting attorney for the court that has jurisdiction of the bond:

55 (i) Declines, in writing, to authorize or facilitate extradition; or

56 (ii) Within ten business days of the notice provided pursuant to division (2)(A)(ii) of
57 this subsection, fails to enter the appropriate extradition approval code into the
58 computerized files maintained by the Federal Bureau of Investigation National Crime
59 Information Center, thereby indicating an unwillingness to extradite the principal."

60

SECTION 2.

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