

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 908*

Short Title: Bond Procedure Changes.

(Public)

Sponsors: Senator Daniel.

Referred to: Judiciary I.

April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO CHANGE SOME PROCEDURES WITH REGARD TO SURETY BONDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-540(a) reads as rewritten:

"(a) A surety may surrender his principal to the sheriff of the county in which the principal is bonded to ~~appear~~-appear, or to the sheriff where the defendant was bonded. A surety may arrest his principal for the purpose of returning him to the sheriff. Upon surrender of the principal the sheriff must provide a receipt to the surety, a copy of which must be filed with the clerk. Upon application by the surety after the surrender of the principal, before the forfeiture of bail under G.S. 15A-544(b), the clerk must exonerate him from his bond."

Sec. 2. G.S. 15A-544(e) reads as rewritten:

"(e) At any time within 90 days after entry of the judgment against a principal or his surety, or on the first day of the next session of court commencing more than 90 days after the entry of the judgment, the court may direct that the judgment be remitted in whole or in part, upon such conditions as the court may impose, if it appears that justice requires the remission of part or all of the judgment. If the principal is incarcerated in North Carolina within 90 days and remains incarcerated up to the forfeiture hearing, the forfeiture shall be stricken upon the payment of costs. If the principal is incarcerated within 90 days after the entry of judgment, then the bond shall be totally remitted upon the payment of costs."

Sec. 3. G.S. 15A-531 reads as rewritten:

"§ 15A-531. Definitions.

1 As used in this Article the following definitions apply unless the context clearly
2 requires otherwise:

- 3 (1) Bail Bond. – An undertaking by the principal to appear in court as
4 required upon penalty of forfeiting bail to the State of North Carolina
5 in a stated amount. Bail bonds include an unsecured appearance bond,
6 an appearance bond secured by a cash deposit of the full amount of the
7 bond, an appearance bond secured by a mortgage pursuant to G.S. 58-
8 74-5, and an appearance bond secured by at least one solvent surety.
9 A surety bond shall be considered the same as a cash deposit for all
10 purposes in this Article.
- 11 (2) Obligor. – A principal or a surety on a bail bond.
- 12 (3) Principal. – A defendant or material witness obligated to appear in
13 court as required upon penalty of forfeiting bail under a bail bond.
- 14 (4) Surety. – One who, with the principal, is liable for the amount of the
15 bail bond upon forfeiture of bail."

16 Sec. 4. G.S. 15A-533 is amended by adding a new subsection to read:

17 "(d) When a misdemeanor is transferred from District Court to Superior Court,
18 pursuant to G.S. 7A-271, there shall be a new determination of pretrial conditions, in
19 accordance with G.S. 15A-534."

20 Sec. 5. G.S. 58-74-1 reads as rewritten:

21 "**§ 58-74-1. Mortgage in lieu of required bond.**

22 (a) An administrator, executor, guardian, collector or receiver, or an officer
23 required to give an official bond, or the agent or surety of such person or officer, may
24 execute a mortgage on real estate, of the value of the bond required to be given by him
25 to the State of North Carolina, conditioned to the same effect as the bond should be,
26 were the same given, with a power of sale, which power of sale may be executed by the
27 clerk of the superior court, with whom said mortgage shall be deposited, upon a breach
28 of any of the conditions of said mortgage, after advertisement for 30 days.

29 (b) The real estate that has been mortgaged to secure a bond, pursuant to
30 subsection (a) of this section, may be used to secure only one bond at a time. When the
31 mortgage is cancelled or discharged, then the real estate securing the mortgage may be
32 mortgaged again to secure another bond.

33 (c) All bonds in the amount of five thousand dollars (\$5,000) or more that are
34 secured by real estate shall require a title search and a deed of trust to be executed.

35 Sec. 6. This act is effective upon ratification.