

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Nelson offered the following:

Amendment (with title amendment)

Between lines 355 and 356, insert:

Section 6. Section 903.045, Florida Statutes, is amended to read:

903.045 Nature of criminal surety bail bonds.-

It is the public policy of this state and the intent of the Legislature that a criminal surety bail bond, executed by a bail bond agent licensed pursuant to chapter 648 in connection with the pretrial or appellate release of a criminal defendant, shall be construed as a commitment by and an obligation upon the bail bond agent to ensure that the defendant appears at all subsequent criminal proceedings ~~and otherwise fulfills all conditions of the bond.~~ The failure of a defendant to appear at any subsequent criminal proceeding ~~or the breach by the~~

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17 ~~defendant of any other condition of the bond~~ constitutes a
18 breach by the bail bond agent of this commitment and obligation.

19 Section 7. Subsection (1) of section 903.14, Florida
20 Statutes, is amended to read:

21 903.14 Contracts to indemnify sureties. -

22 (1) A surety shall file with the bond an affidavit stating
23 the amount and source of any security or consideration which the
24 surety or anyone for his or her use has received or been
25 promised for the bond. The affidavit may be filed in person or
26 electronically.

27 Section 8. Paragraph (b) of subsection (1), paragraph (a)
28 of subsection (2), and subsection (3) of section 903.26, Florida
29 Statutes, are amended to read:

30 903.26 Forfeiture of the bond; when and how directed;
31 discharge; how and when made; effect of payment. -

32 (1) A bail bond shall not be forfeited unless:

33 (b) The clerk of court gave the surety at least 72 hours
34 notice, exclusive of Saturdays, Sundays, and holidays, before
35 the time of the required appearance of the defendant. Notice
36 shall not be necessary if the time for appearance is within 72
37 hours from the time of arrest, or if the time is stated on the
38 bond. Such notice may be mailed or electronically transmitted.

39 (2) (a) If there is a breach of the bond, the court shall
40 declare the bond and any bonds or money deposited as bail
41 forfeited. The clerk of the court shall mail or electronically
42 transmit a notice to the surety agent and surety company ~~in~~
43 ~~writing~~ within 5 days after ~~of~~ the forfeiture. A certificate
44 signed by the clerk of the court or the clerk s designee,

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45 certifying that the notice required herein was mailed or
46 electronically transmitted on a specified date and accompanied
47 by a copy of the required notice, shall constitute sufficient
48 proof that such mailing or electronic transmission was properly
49 accomplished as indicated therein. If such mailing or electronic
50 transmission was properly accomplished as evidenced by such
51 certificate, the failure of the surety agent, of a company, or
52 of a defendant to receive such ~~mail~~ notice shall not constitute
53 a defense to such forfeiture and shall not be grounds for
54 discharge, remission, reduction, set aside, or continuance of
55 such forfeiture. The forfeiture shall be paid within 60 days of
56 the date the notice was mailed or electronically transmitted.

57 (3) Sixty days after the forfeiture notice has been mailed
58 or electronically transmitted:

59 (a) State and county officials having custody of forfeited
60 money shall deposit the money in the fine and forfeiture fund
61 established pursuant to s. 142.01.~~†~~

62 (b) Municipal officials having custody of forfeited money
63 shall deposit the money in a designated municipal fund.~~†~~

64 (c) Officials having custody of bonds as authorized by s.
65 903.16 shall transmit the bonds to the clerk of the circuit
66 court who shall sell them at market value and disburse the
67 proceeds as provided in paragraphs (a) and (b).

68 Section 9. Paragraph (a) of subsection (2) of section
69 903.26, Florida Statutes, is amended to read:

70 (2) (a) If ~~there is a breach of the bond~~ the defendant fails
71 to appear, the court shall declare the bond and any bonds or
72 money deposited as bail forfeited. The clerk of the court shall

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73 mail a notice to the surety agent and surety company in writing
74 within 5 days of the forfeiture. A certificate signed by the
75 clerk of the court or the clerk's designee, certifying that the
76 notice required herein was mailed on a specified date and
77 accompanied by a copy of the required notice, shall constitute
78 sufficient proof that such mailing was properly accomplished as
79 indicated therein. If such mailing was properly accomplished as
80 evidenced by such certificate, the failure of the surety agent,
81 of a company, or of a defendant to receive such mail notice
82 shall not constitute a defense to such forfeiture and shall not
83 be grounds for discharge, remission, reduction, set aside, or
84 continuance of such forfeiture. The forfeiture shall be paid
85 within 60 days of the date the notice was mailed.

86 Section 10. Subsections (1), (2), and (6) of section
87 903.27, Florida Statutes, are amended to read:

88 903.27 Forfeiture to judgment. -

89 (1) If the forfeiture is not paid or discharged by order
90 of a court of competent jurisdiction within 60 days and the bond
91 is secured other than by money and bonds authorized in s.
92 903.16, the clerk of the circuit court for the county where the
93 order was made shall enter a judgment against the surety for the
94 amount of the penalty and issue execution. However, in any case
95 in which the bond forfeiture has been discharged by the court of
96 competent jurisdiction conditioned upon the payment by the
97 surety of certain costs or fees as allowed by statute, the
98 amount for which judgment may be entered may not exceed the
99 amount of the unpaid fees or costs upon which the discharge had
100 been conditioned. Judgment for the full amount of the forfeiture

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101 shall not be entered if payment of a lesser amount will satisfy
102 the conditions to discharge the forfeiture. Within 10 days, the
103 clerk shall furnish the Department of Financial Services and the
104 Office of Insurance Regulation of the Financial Services
105 Commission with a certified copy of the judgment docket and
106 shall furnish the surety company at its home office a copy of
107 the judgment, which shall include the power of attorney number
108 of the bond and the name of the executing agent. If the judgment
109 is not paid within 35 days, the clerk shall furnish the
110 Department of Financial Services, the Office of Insurance
111 Regulation, and the sheriff of the county in which the bond was
112 executed, or the official responsible for operation of the
113 county jail, if other than the sheriff, two copies of the
114 judgment and a certificate stating that the judgment remains
115 unsatisfied. When and if the judgment is properly paid or an
116 order to vacate the judgment has been entered by a court of
117 competent jurisdiction, the clerk shall immediately notify the
118 sheriff, or the official responsible for the operation of the
119 county jail, if other than the sheriff, and the Department of
120 Financial Services and the Office of Insurance Regulation, if
121 the department and office had been previously notified of
122 nonpayment, of such payment or order to vacate the judgment. The
123 clerk may furnish documents or give notice as required in this
124 subsection by mail or electronic means. The clerk shall also
125 immediately prepare and record in the public records a
126 satisfaction of the judgment or record the order to vacate
127 judgment. If the defendant is returned to the county of
128 jurisdiction of the court, whenever a motion to set aside the

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129 judgment is filed, the operation of this section is tolled until
130 the court makes a disposition of the motion.

131 (2) A certificate signed by the clerk of the court or her
132 or his designee, certifying that the notice required in
133 subsection (1) was mailed or electronically delivered on a
134 specified date, and accompanied by a copy of the required notice
135 constitutes sufficient proof that such mailing or electronic
136 delivery was properly accomplished as indicated therein. If such
137 mailing or electronic delivery was properly accomplished as
138 evidenced by such certificate, the failure of a company to
139 receive a copy of the judgment as prescribed in subsection (1)
140 does not constitute a defense to the forfeiture and is not a
141 ground for the discharge, remission, reduction, set-aside, or
142 continuance of such forfeiture.

143 ~~(6) The failure of a state attorney to file, or of the~~
144 ~~clerk of the circuit court to make, a certified copy of the~~
145 ~~order of forfeiture as required by law applicable prior to July~~
146 ~~1, 1982, shall not invalidate any judgment entered by the clerk~~
147 ~~prior to June 12, 1981.~~

148 Section 10. Subsection (1) of section 903.31, Florida
149 Statutes, is amended to read:

150 903.31 Canceling the bond. -

151 (1) Within 10 business days after the conditions of a bond
152 have been satisfied or the forfeiture discharged or remitted,
153 the court shall order the bond canceled and, if the surety has
154 attached a certificate of cancellation to the original bond, the
155 clerk of the court shall mail or electronically furnish an
156 executed certificate of cancellation to the surety without cost.

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157 An adjudication of guilt or innocence, an acquittal, or a
158 withholding of an adjudication of guilt shall satisfy the
159 conditions of the bond. The original appearance bond shall
160 expire 36 months after such bond has been posted for the release
161 of the defendant from custody. This subsection does not apply to
162 cases in which a bond has been declared forfeited.

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T I T L E A M E N D M E N T

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Remove line 27 and insert:

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on the appraiser's website; amending s. 903.045, F.S.; revising
170 provisions relating to the nature of criminal surety bail bonds;
171 amending s. 903.14, F.S.; revising provisions relating to
172 contracts to indemnify sureties; amending s. 903.26, F.S.;
173 revising provisions relating to forfeiture of bonds; amending s.
174 903.27, F.S.; revising provisions relating to forfeiture to
175 judgment; amending s. 903.31, F.S.; revising provisions relating
176 to canceling the bond; providing an effective

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