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LEGISLATIVE ACTION

Senate . House

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04/29/2013 03:34 PM

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Senator Ring moved the following:

Senate Amendment (with title amendment)

Between lines 363 and 364

insert:

Section 6. Subsection (1) of section 903.14, Florida Statutes, is amended to read:

903.14 Contracts to indemnify sureties.—

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

Section 7. Paragraph (b) of subsection (1), paragraph (a)



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14 of subsection (2), and subsection (3) of section 903.26, Florida
15 Statutes, are amended to read:

16 903.26 Forfeiture of the bond; when and how directed;
17 discharge; how and when made; effect of payment.-

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

19 (b) The clerk of court gave the surety at least 72 hours'
20 notice, exclusive of Saturdays, Sundays, and holidays, before
21 the time of the required appearance of the defendant. Notice is
22 ~~shall~~ not be necessary if the time for appearance is within 72
23 hours after ~~from~~ the time of arrest, or if the time is stated on
24 the bond. Such notice may be mailed or electronically
25 transmitted.

26 (2) (a) If there is a breach of the bond, the court shall
27 declare the bond and any bonds or money deposited as bail
28 forfeited. The clerk of the court shall mail or electronically
29 transmit a notice to the surety agent and surety company ~~in~~
30 ~~writing~~ within 5 days after ~~of~~ the forfeiture. A certificate
31 signed by the clerk of the court or the clerk's designee,
32 certifying that the notice required herein was mailed or
33 electronically transmitted on a specified date and accompanied
34 by a copy of the required notice, shall constitute sufficient
35 proof that such mailing or electronic transmission was properly
36 accomplished as indicated therein. If such mailing or electronic
37 transmission was properly accomplished as evidenced by such
38 certificate, the failure of the surety agent, of a company, or
39 of a defendant to receive such ~~mail~~ notice does ~~shall~~ not
40 constitute a defense to such forfeiture and may ~~shall~~ not be
41 grounds for discharge, remission, reduction, set aside, or
42 continuance of such forfeiture. The forfeiture shall be paid



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43 within 60 days after ~~of~~ the date the notice was mailed or
44 electronically transmitted.

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

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

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

52 (c) Officials having custody of bonds as authorized by s.
53 903.16 shall transmit the bonds to the clerk of the circuit
54 court who shall sell them at market value and disburse the
55 proceeds as provided in paragraphs (a) and (b).

56 Section 8. Subsections (1) and (2) of section 903.27,
57 Florida Statutes, are amended to read:

58 903.27 Forfeiture to judgment.—

59 (1) If the forfeiture is not paid or discharged by order of
60 a court of competent jurisdiction within 60 days and the bond is
61 secured other than by money and bonds authorized in s. 903.16,
62 the clerk of the circuit court for the county where the order
63 was made shall enter a judgment against the surety for the
64 amount of the penalty and issue execution. However, in any case
65 in which the bond forfeiture has been discharged by the court of
66 competent jurisdiction conditioned upon the payment by the
67 surety of certain costs or fees as allowed by statute, the
68 amount for which judgment may be entered may not exceed the
69 amount of the unpaid fees or costs upon which the discharge had
70 been conditioned. Judgment for the full amount of the forfeiture
71 may ~~shall~~ not be entered if payment of a lesser amount will



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72 satisfy the conditions to discharge the forfeiture. Within 10
73 days, the clerk shall furnish the Department of Financial
74 Services and the Office of Insurance Regulation of the Financial
75 Services Commission with a certified copy of the judgment docket
76 and shall furnish the surety company at its home office a copy
77 of the judgment, which must ~~shall~~ include the power of attorney
78 number of the bond and the name of the executing agent. If the
79 judgment is not paid within 35 days, the clerk shall furnish the
80 Department of Financial Services, the Office of Insurance
81 Regulation, and the sheriff of the county in which the bond was
82 executed, or the official responsible for operation of the
83 county jail, if other than the sheriff, two copies of the
84 judgment and a certificate stating that the judgment remains
85 unsatisfied. ~~When and~~ If the judgment is properly paid or an
86 order to vacate the judgment has been entered by a court of
87 competent jurisdiction, the clerk shall immediately notify the
88 sheriff, or the official responsible for the operation of the
89 county jail, if other than the sheriff, and the Department of
90 Financial Services and the Office of Insurance Regulation, if
91 the department and office had been previously notified of
92 nonpayment, of such payment or order to vacate the judgment. The
93 clerk may furnish documents or give notice as required in this
94 subsection by mail or electronic means. The clerk shall also
95 immediately prepare and record in the public records a
96 satisfaction of the judgment or record the order to vacate
97 judgment. If the defendant is returned to the county of
98 jurisdiction of the court, whenever a motion to set aside the
99 judgment is filed, the operation of this section is tolled until
100 the court makes a disposition of the motion.



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101 (2) A certificate signed by the clerk of the court or her
102 or his designee, certifying that the notice required in
103 subsection (1) was mailed or electronically delivered on a
104 specified date, and accompanied by a copy of the required notice
105 constitutes sufficient proof that such mailing or electronic
106 delivery was properly accomplished as indicated therein. If such
107 mailing or electronic delivery was properly accomplished as
108 evidenced by such certificate, the failure of a company to
109 receive a copy of the judgment as prescribed in subsection (1)
110 does not constitute a defense to the forfeiture and is not a
111 ground for the discharge, remission, reduction, set-aside, or
112 continuance of such forfeiture.

113 Section 9. Subsection (1) of section 903.31, Florida
114 Statutes, is amended to read:

115 903.31 Canceling the bond.—

116 (1) Within 10 business days after the conditions of a bond
117 have been satisfied or the forfeiture discharged or remitted,
118 the court shall order the bond canceled and, if the surety has
119 attached a certificate of cancellation to the original bond, the
120 clerk of the court shall mail or electronically furnish an
121 executed certificate of cancellation to the surety without cost.
122 An adjudication of guilt or innocence, an acquittal, or a
123 withholding of an adjudication of guilt shall satisfy the
124 conditions of the bond. The original appearance bond shall
125 expire 36 months after such bond has been posted for the release
126 of the defendant from custody. This subsection does not apply to
127 cases in which a bond has been declared forfeited.

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



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130 And the title is amended as follows:
131 Delete line 27
132 and insert:
133 are available on the appraiser's website; amending s.
134 903.14, F.S.; permitting the electronic filing of
135 certain affidavits; amending s. 903.26, F.S.;
136 authorizing a clerk of court to mail or electronically
137 transmit a notice relating to a bond forfeiture
138 proceeding; amending s. 903.27, F.S.; permitting a
139 clerk of court to furnish certain required documents
140 and notices relating to bond forfeitures by mail or
141 electronic means; amending s. 903.31, F.S.; providing
142 that a certificate of cancellation of an original bond
143 may be furnished by mail or electronically; providing
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