

House Bill 1183 (AS PASSED HOUSE AND SENATE)

By: Representatives Gunter of the 8th, Lumsden of the 12th, Scoggins of the 14th, Smith of the 18th, Kelley of the 16th, and others

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 clarify bond forfeiture conditions; to provide for conditions
3 applicable to professional bonding companies that have operated continuously for 18 months
4 or longer in a particular county; to provide for related matters; to repeal conflicting laws; and
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds and
9 recognizances, is amended by revising subparagraph (b)(1)(E) of Code Section 17-6-15,
10 relating to necessity for commitment where bail tendered and accepted, opportunity for bail,
11 receipt of bail after commitment and imprisonment, imprisonment of person who offers bond
12 for amount of bail set, and effect upon common-law authority of court, as follows:

13 "(E) Establishment of a cash escrow account or other form of collateral as follows:

14 (i) For any professional bonding company that is new to the county or that has
15 operated continuously in the county for less than 18 months, in an amount and upon
16 terms and conditions as determined and approved by the sheriff;

- 17 (ii) Once a professional bonding company has operated continuously for 18 months
 18 or longer in the county, then any such cash escrow account or other form of collateral
 19 shall not exceed ~~10~~ 5 percent of the current outstanding bail bond liability of the
 20 professional bonding company and such cash escrow account shall not be required to
 21 have on deposit an amount in excess of \$1,000,000.00; and
- 22 (iii) No professional bonding company shall purchase an insurance policy in lieu of
 23 establishing a cash escrow account or posting other collateral; provided, however, that
 24 any professional bonding company which was using an insurance policy as collateral
 25 as of December 31, 2013, may continue to do so at the discretion of the sheriff."

26 SECTION 2.

27 Said chapter is further amended by revising subsections (d) and (e) of Code Section 17-6-72,
 28 relating to conditions not warranting forfeiture of bond for failure to appear and remission
 29 of forfeiture, as follows:

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

33 (1) Provided the bond amount has been paid within 120 days after entry of the judgment
 34 and the delay has not prevented prosecution of the principal and upon application ~~to the~~
 35 ~~court~~ filed within 120 days from the payment of judgment with prior notice to the
 36 prosecuting attorney of such application, said court shall direct remission of 95 percent
 37 of the bond amount remitted to the surety if the principal is produced or otherwise
 38 appears before the court that has jurisdiction of the bond within such 120 day period
 39 following payment of the judgment:-

40 (2) Provided the bond amount has been paid within 120 days after the entry of judgment
 41 and the delay has not prevented prosecution of the principal, should ~~Should~~ the surety,
 42 within two years of the principal's failure to appear, locate the principal in the custody of

43 the sheriff in the jurisdiction where the bond was made or in another jurisdiction causing
44 the return of the principal to the jurisdiction where the bond was made, apprehend,
45 surrender, or produce the principal, if the apprehension or surrender of the principal is
46 substantially procured or caused by the surety, or if the location of the principal by the
47 surety causes the adjudication of the principal in the jurisdiction in which the bond was
48 made, the surety shall be entitled to a refund of 50 percent of the bond amount. The
49 application for 50 percent remission shall be filed no later than 30 days following the
50 expiration of the two-year period following the date of judgment; or

51 ~~(2)~~(3) Remission shall be granted upon condition of the payment of court costs and of
52 the expenses of returning the principal to the jurisdiction by the surety.

53 (e)(1) If, within 120 days from payment entry of the judgment, the surety surrenders the
54 principal to the sheriff or responsible law enforcement officer, or said surrender has been
55 denied by the sheriff or responsible law enforcement officer, or the surety locates the
56 principal in custody in another jurisdiction, the surety shall only be required to pay costs
57 and 5 percent of the face amount of the bond, which amount includes all surcharges. If
58 it is shown to the satisfaction of the court, by the presentation of competent evidence
59 from the sheriff or the holding institution, that said surrender has been made or denied or
60 that the principal is in custody in another jurisdiction or that said surrender has been made
61 and that 5 percent of the face amount of the bond and all costs have been tendered to the
62 sheriff, the court shall direct that the judgment be marked satisfied and that the writ of
63 fieri facias be canceled.

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

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

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

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

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

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

80

SECTION 3.

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