


Florida Association of Court Clerks
Civil/Criminal Seminar
April 10 -12, 2007


Bail Bond Best Practices

Jean Sperbeck
Clerk's Counsel
Alachua County Clerk of Court



Bail Bond Best Practices

Jean Sperbeck
Clerk's Counsel
Alachua County Clerk of Court



Objective of Best Practices

- Improve efficiency
- Enhance revenue
- Operational consistency
- All three objectives met



Impact on Players

- Agents statewide
- Encourages companies to timely pay forfeitures and judgments
- Sheriff's transportation costs and co-registration efforts
- Indemnitors posting collateral
- Educating judges
- State Attorney as co-party

Attorneys

- Bond forfeitures are civil cases
- Agent's attorney advances cause
- Need attorney to appear in court
- Legal niche--part civil, part criminal
- Failure to have attorney results in lost revenue
- Inter-agency agreements authorized

Indemnitors and Collateral

- Form letter by bond agent
 - Indemnitor responsible for paying forfeiture
 - Pay now—10 days to comply
 - Surrender defendant OR
 - Legal action will be instituted
- Cancellation releases indemnitor
- Agent has duty to timely release

Original bonds—file or vault?

- Each clerk to set policy
- Discharge/cancellation form
- Danger of original bond being removed
- Balance with making copy for court file
- Destruction of bond after 3 years

Other Administration

- Ministerial role vs role as party
- Separate bonds for separate charges
- Judgments—civil or criminal?
 - SRS reporting
- Making return payments timely
 - Return payment to original payor

Agent Registration

- Clerk REQUIRED to register
 - § 648.42—agent may not become surety unless registered with sheriff and clerk
- Register and file power
- Clerk and sheriff shall not permit unless agent licensed
- Registration period: April 1 odd years

More Registration

- Registration form
- Powers—file or record?
- Notary
- Appointment letters
- Terminating agents

Cash Bonds

- Costs paid from cash bond
- What costs?
 - "Court fees, court costs and criminal penalties," § 903.286
- Assignment
- Publish policy

Forfeited Cash Bonds

- Forfeiture—no judgment
- Motions for return
 - Discharge or remission
 - Take out court costs
 - Pro se
 - Court action
- Returns to depositor, not defendant

Cash Bond Form

- Form not regulated
- Old form—Gerald Lewis 1985
- Where on form is cost language?
- Correct statute, 903.286 not 939.17
- AGO Opinion 2006-19

Cash Bond Form cont

- Each county can customize county name/sheriff
- More room for defendant's and depositor's addresses
- Spaces for additional charges removed—§903.02.
- Payment of cost language moved above signature
- Statutory citation corrected
- Forfeiture substituted for estreature, entered by clerk
- Credit service charge reflected, where applicable

CASH APPEARANCE BOND No. _____

STATE OF FLORIDA COUNTY OF _____ COURT COPY

Defendant _____ Address: _____
City _____ St _____ Zip _____

KNOW ALL MEN BY THESE PRESENTS THAT I, _____
Depositor, Address: _____
 City _____ St _____ Zip _____

have deposited with the Sheriff of _____ County, Florida, the sum of _____ Dollars (\$ _____) as security for the appearance of the defendant upon the conditions hereinafter set forth. If the said defendant shall appear before the _____ CIRCUIT OR COUNTY (insert one) Court in and for _____ County _____ Florida at _____ M. on _____ 20____ to answer to a charge¹ of _____ or other charges that may result therefrom and shall appear in said court from day to day and term to term and shall not depart same without leave of court, said money so deposited shall be returned to the depositor, less any unpaid court fees², court costs, and criminal penalties owed by the defendant to the _____ County Clerk of Court on this or any other criminal or civil case in _____ County per section 903.286, Florida Statutes, else to be forfeited. I authorize any finance charges imposed for credit services.³

The above sum received and this bond taken and approved by me on _____ 20____
 by _____ Sheriff, _____ County, Florida Defendant
 Location where taken: _____ Depositor

Property Bonds

- Infrequent, potential loss of revenue
- Objective—to create a lien
- Determine value of property
- Determine Liens
 - In house or by surety re: net value
- Instruments—affidavit, bond, deed

Exoneration

- Treat as any other CIVIL motion
- Court grants, not clerk
- Defendant in jail, or agent surrenders
- Surrender form
- Costs under s. 903.21(3)
- Notice to State Attorney

Surrender / Affirmation Form

- Form not prescribed
- Include costs on form
- Coordinate
 - Court—court exoneration, discharge & remission
 - Clerk—clerk discharge
 - Bond agents—DFS surrender form
 - Sheriff—signs the form
- Acknowledgment vs oath or notary

Forfeiture Prerequisites

- 72 hours notice
- Required appearance
- Written notice
- Notice has required language
 - Universal v. State, 4th DCA, 2002
 - Defendant required to appear
 - Bond will be forfeited

Post-Forfeiture Notice

- To agent and surety company
 - 903.26 says 'surety agent'
- Timing—within 5 days of forfeiture
 - Non-appearance
 - Court forfeiture for other reasons
- Notice to surety company
- Surety company's address (MGA)

Forfeiture Form

- No prescribed form—eliminate legalese
- Essential elements
 - Case style of criminal case
 - Bond power number
 - Agent name
 - Surety company name
- Optional
 - Charge
 - Bond amount
 - Agency
 - Contact information for payments

BOND FORFEITURE

The Clerk is required to automatically forfeit the bond due to the Defendant's failure to appear at hearing as required, §903.26(2)(b), Fla. Stat. The following bail bond and any bond money deposited as bail in this case are forfeited.

Bond power number: _____ Bond amount: \$ _____

Bail bond agent: _____ Surety Co.: _____

Agency: _____ Name of Break: _____

Charge: _____

Surety Bond. This forfeiture is due to the Alachua County Clerk of Court, §142.01(4), Fla. Stat. Failure to pay the forfeiture within 60 days from the date the forfeiture was mailed will result in entry of a judgment, unless discharged.

Cash Bond. Sixty days after the date of this forfeiture, the forfeited money will be deposited in the Clerk's fine and forfeiture fund, § 903.26(3), Fla. Stat.

Dated and certified that copies were mailed on _____ to:

John Doe Agent Surety Company XYZ State Attorney
 John Doe Agency, Inc. 1234 Main St Anytown IN 12345
 234 Main St
 Anytown FL 12345

JOSH DOE CLERK
 CLERK OF THE CIRCUIT COURT

By: _____
 Deputy Clerk

Payment of Forfeiture: On receipt of full payment by money order, certified check, cash, or business check, the forfeiture is closed. If payment is made by business check that fails to clear, the case will be returned to forfeiture status without further notice. Personal checks are not accepted. Make payment to _____ County Clerk, 123 Main St, Anytown, FL. For payment information call (123) 456-7891.

Clerk's Discharge

- Clerk is REQUIRED to discharge
 1. Defendant rearrested
 2. In county
 3. Affirmation/surrender form (proves 1 & 2)
 4. Costs paid
- No motion necessary—documentation

Clerk's Discharge Cont.

- Not exoneration
- Nolle Prosequi, Dismissals
- Cancels bond
- Remission on discharge
- Motions: court or clerk disposition

Discharge Form

- Not prescribed
 - Any form showing forfeiture discharged
 - Include forfeiture date and bond power no.
 - Some counties report multiple cases on one report
- No notice requirements in statute
 - Agents need to know

CLERK'S DISCHARGE OF BOND FORFEITURE

The bond posted on the Defendant is in forfeiture. If a defendant is arrested and returned to the country of jurisdiction of the court, the Clerk has the authority to discharge a forfeiture. §903.26(3), Fla. Stat. The Clerk has received written affirmation by the sheriff or the chief correctional officer that the defendant was arrested and returned to _____ County and that the surety agent has paid any amendment costs and expenses.

Finding that conditions for a discharge has been met, the Clerk of Court discharges the forfeiture of bond # _____

Dated and copies sent by US Mail on _____, 2006, to:

Real Bond Agent: John Doe Agent 1000 Doe Agency, Inc. 234 56th St Anytown FL 12345	Surety Company: Surety Company XYZ 123 45th St Anytown FL 12345	Deputifer: John Doe 234 56th St Anytown FL 12345
---	---	--

Set Aside of Forfeiture

- Not same as discharge
- Clerk is a party
- Used if facts don't fit statutory grounds
- By court only
- Usually 'reinstates' bond
 - Notice problem—reinstates
 - Interference with contract—cancels bond
 - Order should specify

Court Discharge

- Clerk is a party
- Coordinate with State Attorney
- Jurisdiction limited to 60 days
- Motion does not stay judgment
 - need court order within 60 days
- Requires
 - Prosecution not thwarted
 - In jail at time of hearing or surrendered
 - Conditional on payment of costs
 - Remission refund if granted

Transportation Expenses

- Required as condition to discharge...
- Surrender form can include
- Sheriff to agree on clerk's discharge
- No notice on court discharge
- Judgments limited to costs with conditional discharge

Judgment

- 60 days after forfeiture
- No discharge order
- Defendant not arrested and in county
 - Policy: agent or Clerk to determine
- Pending motions do not stay
- Sentenced defendants
- Cases nollied or dismissed

Judgment Cont.

- Transfer case to civil (optional)
- In favor of Clerk, not county
- Against surety company only
- Send to surety company and agent
- Send within 10 days
- Time runs from date of notice
- Notice deficiencies

Payment

- Forfeiture—amount of bond
- Judgment
 - Without motion to set aside—satisfaction
 - Collect interest, recording fee, filing fee if any
 - With motion to set aside—receipt only
 - Collect interest and filing fee if any
 - If granted
 - Judgment set aside, not satisfied
 - Take recording fee from refund.

Payment Cont.

- Payment tolls effect of judgment
- Notice before certificate of nonpayment
 - DFS & OIR
- Notice after certificate of nonpayment
 - If motion to set aside, need payment statement
 - Notify DFS, OIR and sheriff
 - Notify any other clerk or sheriff who received a notice of nonpayment

Setting Aside Judgment

- Sentence not basis to set aside
- If motion filed after 35 days, judgment must be jurisdictionally void
- Granting does not equal remission
 - Order granting must be recorded
- Remission relief available

Non-Payment of Judgment

- Certificate
- Send to DFS—20 counties report
- DFS' role—regulates agents, not sureties
- OIR regulates insurance companies
- Terminate agent, surety company

Collection

- Post 50-day enforcement
- OIR
- Extreme collection measures
- Failure to collect
 - Potential audit
 - Affect on paying agents/companies
 - More non-payments

Remission

- Clerk a named party in §903.28
- Get attorney involved
- Check rearrest date for percentage
- Where is defendant?
- Law is complex, fact specific
- No remission with pending judgment

Cancellation

- Fill out form, where bond not in file
 - If form provided, notice required
- If no cancellation form
 - Notice not required
 - Provide at cost
- Allow electronic access to bond agents
 - Include surety companies
- Nolle pros & dismissal cancels bond

Finance and Accounting

- Two year time limit on remission
- Two-year limit tolled when motion filed
 - Unheard motions remain pending forever
 - Track large forfeitures/judgments with pending motions
 - Keep reserve OR
 - Act through attorney to resolve

Forms

- Uniform elements
 - Surety companies that deal with different counties for data entry
 - Forfeiture vs judgment
- Form motions and orders
 - Administrative orders have samples
 - Involve court and state attorney

Errata

- Discharge vs cancellation
- Ministerial function affects position in litigation
- Estreature vs forfeiture
- Bond agent, bondsman, bondsperson, surety agent, etc.

Proposed Best Practices

Bail Bonds

Background: On July 1, 2005, section 903.28, Florida Statutes, was amended making the Clerk a direct party in forfeiture proceedings. Clerks need to have a uniform understanding of the process.

Recommendations: The Best Practices Committee appointed by the President of the Florida Association of Court Clerks recommends that bond procedures be developed to ensure the most effective procedures will be implemented by the Clerks of the Circuit Court in compliance with the legal requirements set out in the Florida Statutes.

The Best Practices Committee urges the 67 Clerks of the State of Florida to consider implementing the following best practices:

1. **Solicit input from all parties potentially involved in bail bonds.**
 - A) Bail Bond Agents – Posting bonds; seeking relief from bond payments; Compliance with chapter 903 statutory requirements.
 - B) Surety Companies/Managing General Agents – Making payment of forfeitures and forfeiture judgments; filing motions to obtain relief from forfeitures and forfeiture judgments. Consider policies that encourage early payment by giving additional notice of judgments and non-payments to surety companies and managing general agents. Managing General Agents may be entitled to receive notice for the surety companies they represent.
 - C) Judiciary – For involvement in all bail bond forfeiture proceedings.
 - D) Sheriff – Transportation costs and confining defendants surrendered by bond agents and duty to co-register or terminate agents.
 - E) State Attorney’s Office – Determining thwarting of prosecution in discharges and remission. Both the State Attorney and the Clerk’s office are entitled to notice in bond forfeiture proceedings, making coordination important.
 - F) Public Defender – Involvement in quashing a *capias*, how that affects forfeiture and reinstatement of the bond.
 - G) Parties posting collateral – Consider the impact of policy on persons posting collateral with a bail bond agent. Agents are required to get collateral when posting a bond so that the agent has no out-of-pocket expense. The forfeiture will result in the transfer of the collateral to the agent and release of the bond obligation releases the collateral.

2. **Determine Clerk’s Level of Involvement**
 - A) Bond forfeitures must be paid to the Clerk’s Fine and Forfeiture Fund, making the Clerk an interested party at the time of forfeiture. §142.01, Fla. Stat. Each Clerk has a duty to maximize revenues, including revenues from bond forfeitures.
 - B) Each step of the forfeiture process has the potential for lost revenue and should be monitored by the Clerk.
 - C) At many stages of a bond forfeiture proceeding, the Clerk must be represented by counsel in order to protect the Clerk’s interest. Each Clerk that does not have counsel

should contract with another agency's attorney or a private attorney to represent the Clerk in bond forfeiture proceedings. The increased bond revenue should cover this cost.

Develop Procedures for:

3. Administration

- A) Bail bonds are contracts and contract law applies. Contracts are civil in nature—the Florida Rules of Civil Procedures apply to bail bond forfeiture procedures.
- B) Based on A above, SRS reporting requirements that bond forfeiture cases can be reported as “other civil,” and section 903.26(4), Clerks should open a new circuit civil case when a bond forfeiture judgment is due to be entered. However, the SRS manual also provides for maintaining the proceeding in the criminal case. Clerks choosing to leave bond judgments in the criminal case, should consider the effect of section 903.26(4), which requires forfeitures to be transferred to circuit court.
- C) Each Clerk will provide a contact name with contact information of the person responsible for bond agent registrations and terminations to FACC for judgment enforcement purposes.
- D) Surety companies, as corporations, cannot represent themselves in court without an attorney licensed to practice law in the State of Florida.
- E) A bail bond agent, as the party seeking relief, is responsible for taking any action needed to obtain the relief requested, i.e., setting hearings, providing orders to judge.
- F) A pleading can be a motion, petition, application or any other filing normally filed by attorneys when requesting relief.
- G) Each charge or offense requires a separate bond. However, the Clerk has no authority to refuse bonds covering multiple charges or offenses. Clerks should inform judges and bond agents as needed to reduce the number of bonds covering multiple charges, since forfeitures in such cases may be set aside due to lack of statutory compliance. §903.02(4), Fla. Stat. (amended effective 10/1/2006, ch. 2006-279).
- H) Transportation Expenses – Develop a procedure that addresses the payment of transportation expenses, coordinating with the sheriff's office as needed. The Clerk cannot discharge or agree to remission unless transportation expenses are addressed. See, for example, 903.26(8), Fla. Stat. Proof of paying transportation expenses can be included in a uniform surrender form.
- I) Set policy on whether to keep original surety bonds in or apart from the court file. Either the original bond or a copy must be maintained in the court file.
 - 1) Keeping original bonds separate from the file allows use of the discharge certificate attached to the bond; allows centralized bond processing; and allows destruction of the bond after the 3-year retention period. A copy of the bond must be placed in the court file.
 - 2) Keeping the original bond in the court file prevents the discharge or cancellation form from being used to cancel the bond, but there is no need to make a copy of the bond. The original bond will remain in the court file until the file is destroyed. If the original bond is kept in the court file, take measures to prevent this original document from being removed, since it is the contract on which the promise to pay is based.

- 3) Original bonds should never be returned to a bond agent unless the bond was voided. If the bond is in the court file, the original bond can only be returned upon court order.
 - 4) The sheriff is authorized to retain original bonds, but if the sheriff turns bonds over to the clerk, the clerk is required to accept them. See §903.16, Fla. Stat. (also provides that sheriff can hold the money—a pre-Revision 7 holdover that was not addressed in the glitch bills—but money should be held by clerk, since it now goes to the state and not the county).
 - J) Establish a time frame within which to make remission or bond returns to agents or surety companies. Payment should ideally be made within 30 days. See §§28.245 and 213.13, Fla. Stat. requiring remission to state by 20th of month immediately following the month in which the moneys are collected. Establish a procedure to verify that return payments go to the entity that make the initial payment. For example, if the surety company paid the forfeiture or judgment, the remission or refund must go back to the surety company, not the agent or agency.
4. **Agent Registration and Termination Procedures**
- A) The Clerk is required to register bond agents. §648.42, Fla. Stat. (a bail bond agent may not become a surety on an undertaking unless he or she has registered in the office of the sheriff and with the clerk of the court). The Clerk is not given the option in the statute to rely on an agent's registration with the sheriff. However, a cooperative effort may benefit both offices. Ideally agents should not be authorized to write bonds unless the agent is registered with both the clerk's and sheriff's offices.
 - B) Register bail bond agents for registration periods that begin on April 1st of each odd-numbered year. Agents must be registered by April 1st, so clerk's offices should begin accepting registrations on the preceding January 1st. A recorded power of attorney is not a registration. Agents are not required to provide appointment letters. Coordinate registration with the sheriff's office. Do not permit the registration of an agent unless the agent is currently licensed and appointed by the Department of Insurance, now DFS. Establish either a manual or database system to track active agents, which should reflect terminations or unpaid judgments on agents and insurers. Consider using the attached suggested registration form to register agents. A suggested registration form and memo to bond agents is attached.
 - C) Registrations are good for an April 1 through March 30th two-year period—not a rolling fiscal year from the date the agent registered. For example, if an agent registers in May of 2007, that registration is for the April 1, 2007, registration period and is valid through March 30, of 2009. A power of attorney is not invalidated due to an expired notary jurat, unless the expiration date precedes the execution date of the power.
 - D) Update the registration records for “each licensee under this chapter” that notifies the clerk of a change in the licensee's address or telephone number of the licensee's principal business. Notice is required within 10 working days after the change. § 648.421, Fla. Stat.
 - E) The registration of an agent can be terminated. Track termination notices and writing restrictions due to local bond forfeiture judgments and for bond forfeiture judgments

received from other counties. Coordinate terminations with a contact person in the sheriff's office.

- F) Terminate the active registration status of an agent when an insurer gives notice terminating the appointment of a managing general agent, bail bond agent, or temporary bail bond agent. Notice is required to be given to clerk and sheriff within 5 days of the termination. § 648.39, Fla. Stat.
- G) Terminate the active registration status of an agent when a professional bail bond agent gives notice that they have discontinued writing bail bonds during the agent's appointment period. Notice is required to be given to the clerk and sheriff within 30 days after such discontinuance. § 648.40, Fla. Stat.
- H) Terminate an agent or insurer when an unpaid bond forfeiture judgment remains unpaid 35 and 50 days, respectively, until the judgment is paid.
- I) Establish a procedure for receiving bond forfeiture judgments from clerks in other counties and terminate the agent or insurer accordingly, coordinating with the sheriff's office as needed. Take precautions to verify that there were no irregularities with regard to entry of the judgment. Require a certified copy of the bond forfeiture judgment (electronic or paper); a current statement that the judgment remains unpaid; a copy of the original bond; and a copy of the certificate of non-payment.

5. **Cash Bonds**

- A) Apply cash bonds to payment of all court costs and fines owed to the Clerk by the defendant in all cases in the county, §903.286, Fla. Stat., unless the bond is forfeited. If the cash bond exceeds the amount of costs and fines, refund the balance to the depositor shown on the cash bond.
- B) As with surety bonds, cash bonds are contracts. The form of cash bonds is not regulated and the bonds are ordinarily printed by the sheriff's office. Coordinate the language on cash bonds with the sheriff's office to ensure that it correctly cites the statute and authorizes the payment of the costs. Put this language above the signature line. See the attached suggested cash bond form. In addition, for those counties where debit or credit card services are used for cash bonds, add language that authorizes the additional service fee.
- C) To avoid controversy over payment of court costs from cash bonds consider coordinating distribution of informational brochures and posting informational signs in all places at the jail where cash bonds are posted.
- D) If a depositor objects to payment of costs and fines and files an objection with the court, hold the deposit until the court rules. Involve the Clerk's bond attorney in the proceeding
- E) If a third-party, other than the depositor, presents an assignment allowing the assignee to receive the cash bond, require that a copy of the assignment be filed and make payment of any refund to the assignee. The defendant's costs must still be paid out of the cash bond before making the refund.
- F) Treat cash bonds that have been forfeited differently than cash bonds released upon resolution of the criminal case and not forfeited. Forfeit cash bonds in the same way that surety bonds are forfeited. Adjust the forfeiture form as needed. Send notice to the depositor.

- G) When the 60-day discharge period expires, move the cash bond money to the fine and forfeiture fund. There is no judgment entered on cash bonds, since the clerk holds the forfeiture money.
- H) Allow cash bond depositors whose bonds have been forfeited to move for discharge, set aside, or remission as provided for surety agents in this procedure. Though the discharge and remission statutes only address the actions of sureties or bail bond agents, courts would likely find that a depositor has an equitable right to discharge or remission if the defendant has been rearrested and is back in the county. As with surety bonds, a forfeiture should not be 'set aside' unless the forfeiture was entered in error. Give a depositor information regarding surrender forms, if a depositor inquires about a refund when the defendant is in jail in the county. If a surrender form is filed, process a clerk's discharge.
- I) Motions to return cash bonds are legal proceedings, just as motions for discharge or remission on surety bonds. However, where such motions are filed by depositors, they are usually filed pro se. All such motions should be referred to the Clerk's bond attorney.
- J) In responding to motions for refunds on forfeited cash bonds where the defendant has not been sentenced, ask for the motion to be stayed until the defendant is sentenced, so that the costs can be determined and paid out of the cash bond. Alternatively, ask the court to allow enough of the cash bond to be held in reserve to cover anticipated court costs.
- K) Motions can be filed by either the depositor or by the defendant's attorney. When processing these motions or orders, if the court grants the relief requested be sure to return the cash bond money to the depositor, not the defendant, unless the depositor has agreed to this in writing.

6. **Property Bonds**

- A) If it is the Clerk that accepts property bonds, create a property bond procedure for accepting such bonds.
- B) When a property bond is forfeited, the Clerk must file a foreclosure action within two years from the time of recording and file a lis pendens when the action is filed. Otherwise the lien automatically expires after two years. §903.26(4)(b), Fla. Stat.
- C) Before accepting the bond, be certain that the equity in the property equals or exceeds the bond amount and that there are no known impediments to a foreclosure action. Consider the potential costs of foreclosure in the equity valuation.
- D) When determining value and foreclosure impediments, determine the amount of other encumbrances on the property, the value of the property, whether the property would be exempt from forced sale due to a homestead exemption, and whether the person posting the bond is the sole owner of the property,
- E) Determine what proofs the Clerk will require to establish the net value of the property and impediments to foreclosure. A Clerk may choose to search the public records in that county to determine encumbrances; require a title opinion or an attorney opinion letter; or require the surety to submit a certified copy of the deed or mortgage, copy of the tax valuation, and a statement from the property appraiser that the property is not homestead. The property must be in the State of Florida.
- F) The surety must file an affidavit, see §903.26(4), containing the allegations with regard to the value and encumbrances. A deputy clerk may approve this affidavit.

Consider whether to also require that the affidavit include a statement to the effect that the surety is not receiving a premium for posting the bond, since this would require the surety to be licensed.

- G) Upon approval of the affidavit, the affidavit must be attached to an Appearance Bond form that is completed by the Clerk. Assign a bond power number to the bond for ease in filing and identification.
- H) Consider the impact of accepting a deed on forfeiture—for example, there could be contamination liability. Additionally, since the ownership interest of the surety should be clear upon accepting the bond, require a warranty deed, not a quitclaim deed if the property is transferred upon forfeiture.

7. Exoneration – Preforfeiture Surrender

- A) A surety agent may surrender the defendant at any time before bond is breached and obtain an order of exoneration from the court. §§ 903.20-903.21, Fla. Stat. Surety agents sometimes call this “going off bond” or call it an “off-bond.”
- B) The surety agent’s attorney must file a motion or application that includes a certificate from the custodial officer (jail or correctional institution) acknowledging that the defendant was surrendered and a copy of the bond.
- C) The Clerk’s only involvement is to clock in and file the documents. The surety agent’s attorney is responsible for bringing the motion to the court’s attention.
- D) There is no statutory authority for the Clerk to release a surety from the bond when a defendant is surrendered, whether picked up by the surety or already in jail, if the surrender is before forfeiture of the bond.

8. Clerk’s Forfeiture – Failure to Appear

- A) The Clerk must give the surety at least 72 hours notice, not counting Saturdays, Sundays and holidays, before the time of the required court appearance. For regular mail add five days. Include language on the notice required by Universal Bail Bonds v. State, 832 So. 2d 230 (4th DCA 2002)(“defendant’s presence is required and failure of defendant to appear will result in forfeiture of the bond”).
- B) The Clerk must automatically enter the forfeiture if the defendant breaches the bond by failing to appear in court unless a proper waiver of appearance was filed before the non-appearance. §903.26(2)(b) Fla. Stat., Walters v State, 905 So. 2d 974 (1st DCA 2005).
- C) Review the file to determine if the charging instrument was filed within 6 months from date of arrest, and a waiver of appearance was not filed before the non-appearance.
- D) Issue the forfeiture. If the Clerk accepts checks or credit charges, include a notice on the forfeiture about how the forfeiture will be treated if the check is dishonored or the charge is reversed. Include payment contact information—payee, physical payment address (for overnight delivery). See the attached suggested forfeiture form.
- E) Calendar the case for 60 days after the forfeiture notice is mailed for entry of judgment. Use any manual or computerized system that will bring the file to a deputy clerk’s attention when the 60-day time period expires.

- F) Send copies to the State Attorney, surety agent [the person, not the agency, see §903.26(2)(a)], and the surety company's home office. The payment period does not begin to run until the notice is properly sent.
 - G) Mail all copies no more than 5 days after entry of the forfeiture. Do this within 5 days of the breach—the statute uses the term forfeiture, but case law suggests that the breach is the forfeiture.
 - H) If the forfeiture has not been discharged, set aside, or paid within 60 days, proceed to prepare a judgment.
9. **Clerk's Discharge of Forfeiture** – The Clerk *must* discharge the forfeiture if the defendant is surrendered to a detention facility in the county where the case is filed within 60 days from the forfeiture, or before the forfeiture judgment is entered. §903.26(8) Fla. Stat. Such a discharge does not require a motion, however, a clerk's office can require that there be written documentation verifying the surrender.
- A) Establish a procedure for the agent to notify the clerk that the defendant has been arrested and returned to the county.
 - B) Confirm the following information:
 - 1) The defendant is in the county. The clerk cannot discharge the forfeiture if the defendant is in custody elsewhere.
 - 2) Proof that costs of returning the defendant to the county were paid or that there were no costs. Develop a process with the bond agents and the sheriff's office to streamline filing this. See Mike Snapp v. Orange County, 913 So. 2d 88 (5th DCA 2005). The Clerk cannot discharge unless the costs are paid. §903.26(8), Fla. Stat. (if the agent fails to pay the costs the clerk shall not discharge).
 - 3) There is an 'affirmation' from the sheriff or chief correctional officer. Determine how and in what form the affirmation should be. Coordinate this with the sheriff's office or the corrections facility. There is no statutory requirement that the affirmation be in writing, however, without a written affirmation, the Clerk has no record of the defendant being in the county to support the discharge. The Clerk can coordinate with the sheriff to have the sheriff provide this information directly, either manually or electronically, if that meets the needs of the involved parties. Coordinate with the sheriff's office and local bond agents to develop a standard surrender form. A suggested surrender form is attached.
 - C) If the requirements in B are complete, issue a discharge of forfeiture by clerk. The form of discharge is not prescribed by statute so a clerk can use the discharge form from the original bond, make a discharge document, or create some other discharge report that meets the needs of the clerk and the bond agents in each county. Notify the parties who received the forfeiture and any attorneys of record for the forfeiture proceeding.
 - D) Establish a process that notifies agents of what steps they need to get a clerk's discharge, when the requirements in B are not met.
 - E) Decide how to process motions for discharge, where the defendant is in the county. Either handle as a motion for clerk's discharge or treat as a court issue. The motion is not required to be verified or made under oath.

10. **Court Discharge or Set Aside of Forfeiture** – The court may discharge a forfeiture upon determining that it was impossible for the defendant to appear; that the defendant was confined in an institution or jail at the time of the hearing; or the defendant is apprehended within 60 days of the forfeiture. §903.26(5) Fla. Stat. Discharges are purely statutory. The court may set aside a forfeiture on due process grounds, which is an equitable proceeding. The Clerk cannot discharge forfeiture on the grounds set forth in section 903.26(5). A surety agent seeking a court discharge must file a motion through their attorney and obtain a court order.
 - A) If the judge grants the motion, the forfeiture is discharged. The judge has the option of discharging the forfeiture conditional on the payment of transportation costs. §903.27, Fla. Stat. (amended effective 10/1/06 to provide that judgment on such conditional orders is only for unpaid costs).
 - B) Establish a process to notify the Clerk’s bond attorney to address legal defenses to the discharge, since the granting of a discharge is a loss of revenue to the Clerk. See §142.01, Fla. Stat. (forfeitures are paid to the Clerk).
 - C) If the court sets aside the forfeiture, the bond may still be in effect. See Bush v. International Fidelity Ins. Co., 834 So. 2d 212 (4th DCA 2003) (lack of notice restores parties to pre-forfeiture position, does not relieve surety of obligation on bond). In some cases, the bond will be canceled, for example, if the charges were changed. Follow the wording of the order and if there is some question, address this with the Clerk’s bond attorney.

11. **Payment of Forfeiture** – The payment on the forfeiture is due within 60 days of the date of *mailing* the notice of forfeiture. §903.26(2)(a) Fla. Stat. (last line). The payment amount is the amount of the bond.
 - A) Collect the full bond amount and prepare a receipt.
 - B) Clear the forfeiture immediately regardless of payment method.
 - C) If the check is dishonored or credit payment reversed, proceed as if the forfeiture was never paid. If a Clerk accepts checks or credit cards, the forfeiture form should include language that notifies agents that dishonored checks or reversed credit cards will be treated as non-payments.

12. **Forfeiture Judgment** – on the 61st day after notice of forfeiture check to see if any motions regarding the forfeiture have been filed or for any paperwork to confirm that the forfeiture has not been discharged, set aside or paid, or that the defendant is not in detention in the county, if applicable. Be diligent in checking for paperwork and exercise caution when proceeding to enter a judgment.
 - A) Set policy about whether the Clerk will be responsible for checking the detention centers to determine whether the defendant is incarcerated in the county, or whether this will be the responsibility of bond agents. Until a judgment is entered, a Clerk has continuing jurisdiction to discharge a forfeiture. Consider the impact of Mike Snapp Bail Bonds v. State, 913 So. 2d 88 (5th DCA 2005) when making this policy.
 - B) Develop a policy for addressing pending motions asking for relief from forfeiture, i.e., a motion for discharge, when the forfeiture judgment is due to be entered. This should involve judges and bond agents. County Bonding v. State, 724 So. 2d 131 (3d

- DCA 1998), and Frontier v. State, 760 So. 2d 299 (3d DCA 2000), require a judgment to be entered regardless of pending motions. Consider the impact of Mike Snapp v. Orange Co., 913 So. 2d 88 (5th DCA 2005), which advises caution, and McKnight v. State, 362 So. 2d 337 (3d DCA 1978) (clerk may not enter judgment when sheriff's surrender form is filed).
- C) If the forfeiture has not been discharged or set aside by court order/clerk's discharge or paid and the defendant is not in local detention, issue a judgment of forfeiture against the surety company—not the agent or agency. If the court has discharged the forfeiture conditional on the transportation costs and those costs have not been paid, the judgment may only be entered for the amount of the transportation costs. §903.27, Fla. Stat. (amended effective 10/1/06 HB 827, ch. 2006-279). Coordinate with the Sheriff's office to document those costs before the judgment is entered.
 - D) Unless the judgment is going to remain in the criminal case, file a copy of the bond and the forfeiture in a new civil case and assess a circuit civil filing fee. § 903.26, (4) Fla. Stat. (when a bond is forfeited, the clerk shall transmit the bond and any affidavits to the clerk of the circuit court in which the bond and affidavits are filed).
 - E) Prepare a judgment. If the judgment is filed in a civil case, the caption in the civil case should read "State f/u/b/o ____ [name of county here] Clerk of Court vs _____ [surety company's name here]". If the judgment remains in the criminal case, the caption should be the same as the criminal case caption. The judgment should clearly be in favor of the Clerk of Court, not the county, and against the surety company. There is no authority to enter a judgment against the agent or agency. See 903.27(1), Fla. Stat. Include contact information to encourage payment by the surety company, including the payee and a physical address for over-nighted payments. A suggested judgment form is attached. Note that the caption of the case will depend on whether the judgment remains in the criminal case or is moved to a new civil case. The form is for use in a new civil case—with the body applicable to both case types.
 - F) Record the judgment.
 - G) Mail copies within 10 days of entry of the judgment to the surety agent [not the agency] and any attorneys of record, the surety's home office and the Department of Financial Services. *Do not send the judgment to the sheriff until the 35-day non-payment period expires.* The statute also requires sending notice and a certified copy of the judgment to the Office of Insurance Regulation of the Financial Services Commission. If the contact information (mailing address, fax number or email address) provided by the Office of Insurance Regulation is the same as for DFS, consider sending a single notice addressed to both agencies. As of February 2007, DFS will accept notice by email at bailbonds@fldfs.com. If giving notice by email, scan a certified copy of the judgment and attach it to the email. In the event the Office of Insurance Regulation chooses to impose regulatory restrictions on a non-compliant company, it will need a certified copy of the judgment.
 - H) Calendar the judgment for 35 days. Should the judgment not be satisfied, this is the date that a certificate of non-payment should be issued.
13. **Payment of Forfeiture Judgment *without* Motion to Set Aside** – A forfeiture judgment must be paid within 35 days from the clock-in date. §903.27 Fla. Stat.

- A) If payment is offered, receipt payment for the amount of the judgment plus per diem interest and the cost of preparing and recording the satisfaction. The statute requires that the clerk prepare and record the satisfaction, but does not require that this service be provided free of charge.
 - B) Issue the satisfaction and deliver it to each agency that received a copy of the judgment.
 - C) If the judgment is paid after the certificate of non-payment has been issued, within 2-5 days of the payment send a copy of the satisfaction to the offices that received the certificate. Timeliness of notice of the satisfaction is crucial, since the agency's and the insurance company's business will be interrupted until the satisfaction is received by the agencies that have terminated the agent or insurance company due to the unpaid judgment.
 - D) Record the satisfaction and mail copies to the agent and home office of the surety.
14. **Payment of Forfeiture Judgment *with* Motion to Set Aside** – An agent may pay the judgment in escrow if the payment is accompanied with a motion to set aside a judgment. The agent is required to file the motion within 35 days of the judgment. §903.27 Fla. Stat. This is a conditional payment that stops the running of the clock.
- A) Collect the bond amount plus interest, prepare a receipt, and place in escrow. Do not issue a satisfaction.
 - B) The case remains pending until the court has ruled on the motion.
 - C) Notify the Clerk's bond attorney of the motion.
 - D) Depending on the facts of the case, the agent may have grounds for setting aside a judgment under Rule 1.540. If the motion is filed after the 35-day deadline has passed, accept the filing and collect the escrow payment.
 - E) The court will direct how the escrowed money should be distributed when it rules on the motion.
15. **Motion to Set Aside Forfeiture Judgment *with* Payment** – A surety agent is authorized to file a motion to set aside a forfeiture judgment within 35 days of notice of the judgment. It is surety agent's attorney's responsibility to bring this motion to the attention of the judge. It must be accompanied by a payment of the judgment into escrow. §903.27(5), Fla. Stat
- A) If the motion is filed after the 35-day deadline, accept the filing. The lateness of the motion should be addressed by the Clerk's bond attorney.
 - B) Forward a copy of the motion to the Clerk's bond attorney.
 - C) If the court sets aside the judgment, the court will determine whether the forfeiture should also be set aside or whether remission will be granted. Setting aside the judgment does not set aside the forfeiture. This should be separately requested in the motion and order.
 - D) If the motion is granted, record the order. If a certificate of nonpayment has been issued, fax copies of the order setting aside the judgment to the noticed agencies along with a copy of the notice of non-payment for reference within 2-5 days of receipt of the order. §903.27 Fla. Stat.

Include a letter or cover sheet, which states that the order restores the agent's or surety's ability to write bonds.

- E) If the motion is denied the judgment is still in effect and the surety is not entitled to remission. Resolute Insurance Company v. State, 289 So. 2d 456 (3d DCA 1974). The order should direct that the payment comes out of escrow and into the fine and forfeiture fund, so that the judgment will then be satisfied. Issue and record a satisfaction when the proceeding is final, i.e. no appeal filed within the time allowed.

16. **Motion to Set Aside Forfeiture Judgment *without* Payment** – A surety agent is authorized to file a motion to set aside a forfeiture judgment within 35 days of notice of the judgment. It is surety agent's attorney's responsibility to bring this motion to the attention of the judge. It must be accompanied by a payment of the judgment into escrow. §903.27(5), Fla. Stat.

- A) Docket the motion, noting that the judgment has not been paid.
- B) Notify the clerk's bond attorney.
- C) Determine whether the defendant is in custody in the county, since this tolls the effect of the judgment statute. §903.27(1), Fla. Stat.
- D) If the defendant is not in custody in the county, continue counting and proceed to process the certificate of nonpayment when the time runs.
- E) Since payment of the judgment is a condition of setting aside the judgment, the motion should be denied. When the court rules, follow the directions in paragraph 14.

17. **Certificate of Nonpayment and Enforcement** – If a judgment of forfeiture remains unpaid after 35 days, the Clerk must issue a certificate stating that the judgment remains unpaid. §903.27(1) Fla. Stat. This requirement is tolled if the surety agent has filed a motion to set aside the judgment and has *paid* the judgment amount or the defendant is in custody in the county.

- A) On the 36th day confirm that the judgment has not been paid, vacated or set aside. If a motion to set aside judgment is filed, also confirm that the defendant is not in custody in the county. §903.27(1), Fla. Stat. (last sentence).
- B) If none of the above has happened, issue a certificate of nonpayment of bond forfeiture. See the attached suggested form.
- C) Furnish copies to the Sheriff, the Department of Financial Services and the Office of Insurance Regulation along with 2 copies of the judgment. §903.27(1) Fla. Stat. Notice to the Department of Financial Services is important, as DFS reports the unpaid judgments to the insurer and this can assist with getting the judgment paid. For the two agencies, use the notice procedure described above for giving notice of judgments. This section of the statute requires that two certified copies of the judgment be sent with the certificate of non-payment. However, DFS scans the paper judgments and disposes of them. Consider sending only one certified paper judgment, or if the notice is being sent electronically only attach one

scanned certified judgment. Note: forfeiture statutes are 'strictly construed', so it is possible that the clerk's position may be compromised in judgment contests if two certified copies are not provided.

- D) When a judgment remains pending for 35 days, the agent may not write bonds. §903.27(3), Fla. Stat. Coordinate the termination of an agent who has a judgment pending for more than 35 days with the sheriff's office. Note that the termination of the agent does not terminate the agency, so other agents in the agency may continue to write bonds.
- E) Mail a copy to the surety agent and the surety company's home office and the attorneys of record, if any. This notice is not statutorily required, but will increase the likelihood of the surety company paying the judgment before the surety company's 50-day cut-off deadline.
- F) When a judgment remains pending for 50 days, the surety may not write bonds in the State of Florida. §903.27(3), Fla. Stat. Develop a form or supplemental non-payment notice to send to the sheriff's office that directs the sheriff to terminate the surety's bond-writing privileges until the judgment is paid. The issuance of a supplemental non-payment notice is for enforcement purposes, only, since there is no statutory directive to issue such a notice.
- G) On the 51st day, confirm that the judgment has not been paid, vacated or set aside and issue the supplemental non-payment notice. Include a certified copy of the judgment. If necessary, add a cover letter or memo that clearly states that the surety company cannot write bonds until the judgment is paid. Note that some agents write for multiple surety companies and an agent who writes for a terminated surety company can continue to write bonds for other surety companies, except that the agent who bond that is in judgment cannot write bonds at all until the judgment is satisfied.
- H) Mail copies of this supplemental non-payment notice to the agent and to the surety company at its home office.
- I) All Florida judgments can be enforced in Florida. Section 903.27(3) prohibits agents and surety companies from writing bonds if they have a judgment that remains unpaid for 35 and 50 days, respectively. If the judgment remains unpaid after 60 days (giving the surety company time to make payment or address defenses) and the agent and surety company have been terminated locally, enforce the judgment by sending the judgment and the notice of non-payment to any or all of the other 66 clerks and sheriffs of the state. When sending notice, consider the location of the agent and the impact of notifying individual clerks' and sheriffs' offices. Some Clerks may require certified copies of the judgment. Include a cover letter that shows the date of the judgment, confirms the judgment remains unpaid, and directly asks the sheriff and clerk to terminate the named agent and insurer from writing in that county until the judgment is paid.
- J) If the judgment is subsequently paid, within 48 hours notify every clerk and sheriff who was sent a termination request a copy of the satisfaction

and a cover letter explaining that the judgment has been satisfied and that the agent's and insurer's authority to write bonds is restored as to that judgment.

18. **Remission of Forfeiture** – A court may order remission, which is a reimbursement to the surety agent of a portion of or the entire bond payment. §903.26(5) (c) and 903.28 Fla. Stat. A request for remission may be made by separate motion or as part of the relief sought in a motion for discharge, set aside judgment or similar motion. The Clerk is a party to the remission proceeding and any remission granted is a loss of revenue to the Clerk.
- A) Decide on a process for remission. This should involve all parties – judges, the Clerk, bond agents, and the sheriff.
 - B) Determine how to get the Clerk's bond attorney involved to raise legal defenses to the requested remission, if any.
 - C) Confirm that the forfeiture is paid and no judgment is pending. A pending judgment prevents remission and there is nothing to remit if the forfeiture is not paid.
 - D) Determine whether the percentage requested matches the amount authorized by statute by checking the forfeiture date with the date of apprehension. The date of apprehension is the date the defendant was arrested, whether in the county or not. See Board of Com'rs of Brevard v. Barber Bonding Agency, 860 So. 2d 10 (5th DCA 2003).
 - E) Confirm that an affidavit was filed with the motion or 'application.'
 - F) Review the petition for the following:
 - 1. The petition alleges (a) apprehension or surrender; (b) defendant already in jail due to arrest on other charges; (c) agent attempted to apprehend or surrender; or (d) there was no breach.
 - 2. The facts show the agent's efforts and support the allegations.
 - 3. The petition includes an allegation that prosecution not thwarted.
 - 4. The petition shows that the costs of transportation, if any, have been paid.
 - 5. The petition or affidavit shows the steps the agent took to get the defendant to the missed hearing. Accredited v. Putnam County, 528 So. 2d 430 (5th DCA 1988),
 - G) Determine whether the surety has met its burden of proof. Remission is deemed a windfall to the surety and the surety has the burden of proof. Accredited v. Putnam County, 528 So. 2d 430 (5th DCA 1988).
 - H) Be aware that the court has the discretion to award less than the statutory percentage. Accredited v. Putnam County, 528 So. 2d 430 (5th DCA 1988).
19. **Canceling the bond** – cancel the bond under section 903.31, Fla. Stat., under the statutory conditions.

- A) Cancel when 36 months have passed since the bond was posted. Any forfeiture entered after this time period would be subject to being set aside, which is an issue that can be raised by an affected agent.
- B) Cancel on order of the court when conditions of bond have been satisfied
 - 1. Adjudication of guilt or innocence, acquittal, or withheld adjudication of guilt. Do not cancel the bond if there is a pending forfeiture. §903.31(1), Fla. Stat. (last line).
 - 2. Discharge or remission of forfeiture, but not set aside of forfeiture, unless court order specifically directs cancellation.
- C) No formal charges were brought 365 days from the date the defendant was arrested. Any forfeiture entered after this time period would be subject to being set aside.
- D) If the surety has attached a certificate of cancellation to the original bond, furnish an executed certificate of cancellation to the surety without cost. §903.31(1), Fla. Stat. (amended effective 10/1/2006, HB 827, ch. 2006-279). When the original bond is not in the court file, the ‘discharge’ or cancellation form that is attached to the bond can be used for this purpose. Retain the original appearance bond portion for 3 years from the date of cancellation. Alternately, the Clerk can coordinate with the court to include cancellation language in the judgment and sentence. The form for cancellation is not prescribed by statute, so any form that meets the needs of a particular county can be utilized.
- E) Consider providing electronic access to criminal dockets to local surety agents with an agreement that such access complies with the requirement to notify an agent of bond cancellations. Such access can assist agents in confirming cancellations so that they can release collateral to the person who pledged property or money to secure the bond.

20. **Finance and Accounting** — a surety has two years within which to apply for remission. §903.28(1), Fla. Stat., State fubo Dade v. Romero, 456 So. 2d 1281 (3d DCA 1984). However, once a motion is filed, the two-year time period is tolled. See Leach v. State, 293 So. 2d 77 (1st DCA 1974). Though the statute provides that a surety’s right to remission is reduced by certain percentages as time passes, it is the arrest date, not the motion’s filing date, that determines the remission percentage. Board of Com’rs of Brevard v. Barber Bonding Agency, 860 So. 2d 10 (5th DCA 2003). For example, if the motion for remission is filed over a year after the forfeiture, but defendant’s arrest date was within a year, the surety is entitled to 85% remission, not 50%.

Set up a monthly or quarterly review, to determine which bond payments are final, i.e., no longer subject to remission returns due to pending motions. If periodic or individual reviews are impractical, note any cases with large unresolved forfeiture payments and retain these amounts in the forfeiture account to cover future remission orders.

21. **Suggested Forms** — the following suggested forms are included with this procedure:

- A) Cash Appearance Bond
- B) Bond Forfeiture

- C) Bail Bond Surrender Form
- D) Clerk's Discharge of Bond Forfeiture
- E) Certification of Unpaid Bond Forfeiture (Transfer to Civil)
- F) Bond Forfeiture Judgment
- G) Satisfaction of Bond Forfeiture Judgment
- H) Certificate of Non-Payment of Bond Forfeiture Judgment
 - I) Supplemental Certificate of Non-Payment of Bond Forfeiture Judgment
 - J) Certificate of Cancellation
- K) Bail Bond Registration Form
- L) Memo to Bail Bond Agents

CASH APPEARANCE BOND

No. _____

COURT COPY

STATE OF FLORIDA, COUNTY OF _____

Defendant _____, Address: _____

KNOW ALL MEN BY THESE PRESENTS THAT I, _____ City _____ St _____ Zip _____

_____, Depositor, Address: _____

City _____ St _____ Zip _____

have deposited with the Sheriff of _____ County, Florida, the sum of _____

Dollars (\$ _____) as security for the appearance of the defendant upon the conditions hereinafter set forth. If the said

defendant shall appear before the CIRCUIT OR COUNTY (circle one) Court, in and for _____ County, _____, Florida at

_____ M. on _____ 20 _____ to answer to a charge of _____

_____ or other charges that may result therefrom

and shall appear in said court from day to day and term to term and shall not depart same without leave of court, said money so

deposited shall be returned to the depositor, **less any unpaid court fees, court costs, and criminal penalties owed by the defendant**

to the _____ County Clerk of Court on this or any other criminal or civil case in _____ County per section 903.286, Florida

Statutes, else to be forfeited. I authorize any finance charges imposed for credit services.

The above sum received and this bond taken and approved by me

on _____ 20 _____

_____, Sheriff, _____ County, Florida

by _____ D.S.

Location where taken: _____

Defendant

Depositor

IN THE COUNTY/CIRCUIT COURT OF THE
_____ JUDICIAL CIRCUIT IN AND FOR _____ COUNTY, FLORIDA

State of Florida

Case No.: _____

Division: _____

v.

_____ ,

Defendant.

BOND FORFEITURE

The Clerk is required to automatically forfeit the bond due to the Defendant's failure to appear at hearing as required. §903.26(2)(b), Fla. Stat. The following bail bond and any bond money deposited as bail in this case are forfeited:

Bond power number: _____ Bond amount: \$ _____
Bail bond agent: _____ Surety Co.: _____
Agency: _____ Nature of Breach: _____
Charge: _____

Surety Bond: This forfeiture is due to the _____ County Clerk of Court, §142.01(4), Fla. Stat. Failure to pay the forfeiture within 60 days from the date the forfeiture was mailed will result in entry of a judgment, unless discharged.

Cash Bond: Sixty days after the date of this forfeiture, the forfeited money will be deposited in the Clerk's fine and forfeiture fund. § 903.26(3), Fla. Stat.

Dated and certified that copies were mailed on _____, to:

John Doe Agent
John Doe Agency, Inc.
234 Main St
Anytown FL 12345

Surety Company XYZ
1234 Main St
Anytown IN 12345

State Attorney

JOHN DOE CLERK
CLERK OF THE CIRCUIT COURT

By: _____
Deputy Clerk

Payment of Forfeiture: On receipt of full payment by money order, certified check, cash, or business check, the forfeiture is closed. If payment is made by business check that fails to clear, the case will be returned to forfeiture status without further notice. Personal checks are not accepted. Make payment to _____ County Clerk, 123 Main St, Anytown, FL.

BAIL BOND SURRENDER FORM
_____ COUNTY, FLORIDA.

Name of Defendant: _____

Court Case No.: _____

Bond No.: _____

I, _____, a duly appointed deputy sheriff or otherwise authorized employee of the _____ County Sheriff's Office, affirm that the following is true and correct:

The defendant was returned on _____ to the _____ County by the following method:

[check one]

___ Transport from outside _____ County by the _____ County Sheriff's Office or a private transport company at a cost of \$_____ and

___ payment of _____ was made, receipt attached

___ payment is pending

___ Transport from within _____ County by the _____ County Sheriff's Office— no fee

___ Surrender at the _____ County Jail or transport by the surety agent.

This statement constitutes an affirmation under sections 903.26(5)(c) and 903.26(8), Florida Statutes, as well as proof of surrender under section 903.21, Florida Statutes.

Dated: _____.

Deputy Sheriff or Authorized Employee

A surety agent is also required to file a Statement of Surrender form under section 648.4425, Florida Statutes, as promulgated by the Department of Financial Services.

COST AGREEMENT

The undersigned agrees that the surety agent shall pay the cost of transporting the defendant shown above to the _____ County Sheriff's Office in compensation for costs incurred in returning the defendant to the jurisdiction of the court.

Surety Agent or Surety' Attorney

IN THE _____ COURT OF THE _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

State of Florida

v.

Case Number:

Division:

Defendant.

_____ /

CLERK'S DISCHARGE OF BOND FORFEITURE

The bond posted on the Defendant is in forfeiture. If a defendant is arrested and returned to the county of jurisdiction of the court before judgment is entered, the Clerk has the authority to discharge a forfeiture. §903.26(8), Fla. Stat. The Clerk has received written affirmation by the sheriff or the chief correctional officer that the defendant was arrested and returned to _____ County and that the surety agent has paid any attendant costs and expenses.

Finding that conditions for a discharge have been met, the Clerk of Court discharges the forfeiture dated _____ of bond power # _____ in the amount of \$_____.

Dated and copies sent by US Mail on _____, 20____, to:

Bail Bond Agent:
John Doe Agent
John Doe Agency, Inc.
234 Main St
Anytown FL 12345

Surety Company:
Surety Company XYZ
1234 Main St
Anytown FL 12345

Depositor
John Doe
234 Main St
Anytown FL 12345

JOHN DOE CLERK
CLERK OF THE CIRCUIT COURT

By: _____
Deputy Clerk

IN THE COUNTY/CIRCUIT COURT OF THE
_____ JUDICIAL CIRCUIT IN AND FOR _____ COUNTY, FLORIDA

State of Florida

Case No.: _____

Division: _____

v.

Defendant.

**CERTIFICATION OF UNPAID BOND FORFEITURE
FOR ENTRY OF BOND FORFEITURE JUDGMENT**

The described bond was forfeited on _____ and 60 days have passed since that date; no order has been entered discharging or setting aside the forfeiture; no payment has been received; and that the Clerk is required enter a civil judgment on the described forfeiture. §903.27(1), Fla. Stat.

Bond power number: _____ Bond amount: \$_____

Bail bond agent: _____ Surety Co.: _____

Agency: _____ Nature of Breach: _____

Charge:

A copy of the bond and the bond forfeiture are included with this transfer document.

Date: _____.

JOHN DOE CLERK
CLERK OF THE CIRCUIT COURT

By: _____
Deputy Clerk

IN THE COUNTY/CIRCUIT COURT, _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

STATE OF FLORIDA f/u/b/o
_____ COUNTY CLERK OF COURT,

v.

Case No.: _____

Division: _____

ENCOMPASSING SURETY CO.,
Defendant.

BOND FORFEITURE JUDGMENT

If a forfeiture is not paid or discharged by order of court within 60 days, the clerk of the circuit court is required to enter a judgment against the surety for the amount of the penalty and issue execution. §903.27, Fla. Stat. The forfeiture was not paid or discharged within 60 days of the bond forfeiture's mailing date. Accordingly, it is

ADJUDGED that judgment is entered in favor of the _____ County Clerk of Court against the named surety for the bond amount shown on the described bond issued by the named agent:

Bond power number: XYZZAB1234-BB-12 Bond amount: \$100,000.00

Bail bond agent: John Doe Agent Surety: Encompassing Surety Co.

Agency: John Doe Ins Agency

Interest at the legal rate shall accrue on the amount of this judgment from its filing date, all for which let execution issue.

Dated _____, 20_____.

JOHN DOE CLERK
CLERK OF THE CIRCUIT COURT

By: _____
Deputy Clerk

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing Bond Forfeiture Judgment was sent by regular U.S. Mail (unless otherwise noted) on _____, 20____, [required to be sent within 10 days of entry of the judgment], to:

Name of executing agent: Surety Company (home office address):

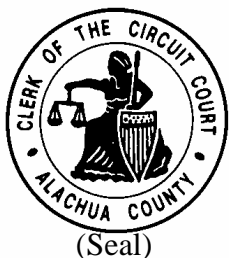
Depositor (if cash bond): Attorneys of record if any:

Florida Department of Financial Services
(certified copy sent)
200 East Gaines Street
Tallahassee, FL 32399-0300

Office of Insurance Regulation
(certified copy sent)
200 East Gaines Street
Tallahassee, FL 32399-0326

NOTE: Interest accrues on this judgment at 11% per annum, § 55.03, Fla. Stat., or \$_____ per day from the stamped filing date on the face of the judgment until full payment is tendered to the _____ County Clerk of Court at 123 Main St, Anytown FL 31234, (123) 456-7891. Payment sent by mail must include interest at the stated per diem rate through the date of postmark. When payment is made by business check, the Clerk will not issue a notice of payment or a satisfaction of judgment until the check clears. Personal checks are not accepted.

Surety bail bonds may not be executed by a bail bond agent against whom a judgment has been entered which has remained unpaid for 35 days and may not be executed for a company against whom a judgment has been entered, which has remained unpaid for 50 days. §903.27(3), Fla. Stat.



JOHN DOE CLERK

COUNTY CLERK OF
THE CIRCUIT COURT

By: _____
Deputy Clerk

IN THE COUNTY/ CIRCUIT COURT, _____ JUDICIAL
CIRCUIT, IN AND FOR _____ COUNTY, FLORIDA

Case No.: 01- _____, Div. ____

STATE OF FLORIDA,

vs.

Defendant.

_____ /

SATISFACTION OF BOND FORFEITURE JUDGMENT

The Clerk of the Circuit Court acknowledges receipt of _____, comprised of \$ _____, the face amount of the judgment, \$ _____ in interest accruing on the judgment through the date of payment, and \$ _____ to record this instrument, to satisfy the Bond Forfeiture Judgment issued on _____ and recorded at O.R. Book _____, Page _____ against surety company _____, whose bond agent is _____, on bond power number _____.

Dated and copies furnished on _____, _____ to:

Florida Dept. of Financial Services (fax)

_____ County Sheriff (fax)

Office of Insurance Regulation (fax)

_____ County Sheriff Dept. of Jail (fax)

Surety Company (US Mail)

Bond Agent (US Mail)

Street

Street

City State

City State

JANE DOE CLERK
CLERK OF THE CIRCUIT COURT

(Seal)

By: _____
Deputy Clerk

IN THE COUNTY/CIRCUIT COURT, _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

STATE OF FLORIDA f/u/b/o
_____ COUNTY CLERK OF COURT,

v.

Case No.: _____

Division: _____

ENCOMPASSING SURETY CO.,
Defendant.

CERTIFICATE OF NONPAYMENT OF BOND FORFEITURE JUDGMENT

TO:

Department of Financial Services
Attn: Ray Wenger
200 E Gaines St
Tallahassee FL 32399-0300

_____ County Sheriff
Street address.
City State Zip

Office of Insurance Regulation
200 E Gaines St
Tallahassee FL 32399-0300

You are notified that 35 days have expired from the entry of the Bond Forfeiture Judgment and the judgment remains unpaid. §903.27(1), Fla. Stat. A sheriff or other authorized official cannot accept or approve a bail bond executed by bail bond agent _____, who may not execute a bond in the State of Florida until the judgment is paid. §648.44(1)(m), Fla. Stat. Two copies of the judgment are attached.

Dated and sent by U.S. Mail on _____, _____, and, without attachments, to:

Bail Bond Agent: John Doe Agent, Street address, city state zip
Managing General Agency: (if applicable), name, address, city, state, zip
Surety Company: Name, address, city, state, zip

JANE DOE CLERK
CLERK OF THE CIRCUIT COURT



By: _____
Clerk of the Circuit/County Court

Make payment to
_____ County Clerk, 123 Main St, Anytown FL; (123) 456-7891

IN THE COUNTY/CIRCUIT COURT, _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

STATE OF FLORIDA f/u/b/o
_____ COUNTY CLERK OF COURT,

v.

Case No.: _____
Division: _____

ENCOMPASSING SURETY CO.,
Defendant.

**SUPPLEMENTAL
CERTIFICATE OF NONPAYMENT OF BOND FORFEITURE JUDGMENT**

TO:

Department of Financial Services
Attn: Ray Wenger
200 E Gaines St
Tallahassee FL 32399-0300

_____ County Sheriff
Street address.
City State Zip

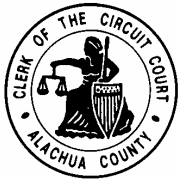
Office of Insurance Regulation
200 E Gaines St
Tallahassee FL 32399-0300

You are notified that 50 days have expired from the entry of the Bond Forfeiture Judgment in this action and the judgment remains unpaid. A sheriff or other authorized official cannot accept or approve a bail bond executed for surety company _____, nor may a bail bond execute a bond for the named company until the judgment until the judgment is paid. §903.27(3), Fla. Stat. A copy of the judgment is attached.

Dated and sent by U.S. Mail on _____, 20, and, without attachments, to:

Bail Bond Agent: John Doe Agent, Street address, city state zip
Managing General Agency: (if applicable), name, address, city, state, zip
Surety Company: Name, address, city, state, zip

JANE DOE CLERK
CLERK OF THE CIRCUIT COURT



By: _____
Clerk of the Circuit/County Court

Payment due to
_____ County Clerk, 123 Main St, Anytown FL

IN THE _____ COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

State of Florida

Case Number: 01-20__-__-_____

v.

_____,
Defendant.

CERTIFICATE OF CANCELLATION

TO: Bail Bond Agent
1234 Main Street
Anytowne FL 30001

The _____ County Clerk of Court certifies cancellation of the described bond or bonds:

Bond Power Number: _____

Bond Power Number:

Charge: _____

Charge:

Cancellation Date: _____

Cancellation Date:

Disposition:

Disposition:

Dismissal/ Nolle Prosequi

Dismissal/ Nolle Prosequi

Adjudicated Guilty/Not Guilty

Adjudicated Guilty/Not Guilty

Adjudication Withheld

Adjudication Withheld

Disposition Date: 03-08-2006

Disposition Date:

Dated: _____.

Jane Doe
Clerk of the Circuit Court

By: _____
Deputy Clerk

_____ County Clerk of Court/_____ Sheriff

BAIL BOND AGENT REGISTRATION FORM

Agents are required to both register and file a certified copy of the power of attorney with both the Clerk and Sheriff by April 1 of each odd-numbered year in the county in which the agent resides. §648.42, Fla. Stat. The clerk may not permit registration unless the agent is currently licensed and appointed by the department. An agent may also register in any other county.

Fill out and file a registration form with both the Clerk's office and the Sheriff's office.

Registration Period: April 1, 2007 – March 30, 2009¹ License No.: _____

Name: _____

Company: _____

Agent Address: _____

Agent's County of Residence: _____

Agency: _____

Agency Address: _____

Agency Phone/Fax: _____

_____ (initial) Each licensee is required to notify the clerk where the licensee is registered in writing within 10 working days of any change in the licensee's principal business address or telephone number. §648.421, Fla. Stat.

Attach certified copies of all powers of appointment and copy of license. A certified copy may be provided by the surety company. If none is provided by the surety company, a certified copy may be purchased from the Clerk's office.

Date: _____

Agent's Signature

Office Use Only-License Verification		Agent Licensed	Yes	No
Date verified:	Clerk:	Comments:		

¹ The registration period is subject to reduction due to termination of appointment or disqualification of the agent under chapters 624, 648 or 903, Florida Statutes, including the entry of a judgment that remains unpaid for 35 days under section 903.27, Florida Statutes. See, for example, sections 648.39, 648.43, Florida Statutes.

CLERK OF THE CIRCUIT COURT

To: Bail Bond Agents Registering in _____ County

From:

Re: Bail Bond Agent Registration for April 1, 2007, Registration Period

Date: _____

MEMORANDUM

Florida Statutes require each bail bond agent to register with both the _____ County Sheriff's and the _____ County Clerk's offices before the agent can issue a bond in _____ County. § 648.42, Fla. Stat. Agents must be registered by April 1st of each odd-numbered year.

The Sheriff's and Clerk's Offices will accept bail bond agent registrations beginning January 2, 2007, for 2007 registrations. Registration consists of filing (1) a completed registration form, copy attached; (2) a certified copy of a power of attorney from each insurer the agent represents; and (3) proof that the agent is currently licensed. Agents may file their registration papers for the Clerk's office at the _____ County Criminal Justice Center and for the Sheriff's office at the Department of the Jail in the main lobby (the bond room).

The "certification" on the power can be by the insurer. If the agent cannot provide a certification by the insurer, the agent can record the original power and purchase certified copies from official records for filing with the Clerk's and Sheriff's offices.

Once the Clerk's office verifies that an agent is licensed and the paperwork is complete, the Clerk's office will notify the agent that the registration is accepted. Once an agent is registered with both the Sheriff office and the Clerk's office, the Sheriff will accept bonds written by the agent.

When writing a bond, the Sheriff's office requires each agent to add his or her license number on the bond or print the agent's name below or next to the signature so that the Clerk can identify the agent who wrote the bond. Using a stamp with the agent's name and license number will meet this requirement.

648.24. Declaration of public policy

It is the public policy of this state and the intent of the Legislature that a bond for which fees or premiums are charged must be executed by a bail bond agent licensed pursuant to this chapter in connection with the pretrial or appellate release of a criminal defendant and shall be construed as a commitment by and obligation upon the bail bond agent to ensure that the defendant appears at all subsequent criminal proceedings.

648.25. Definitions

As used in this chapter, the term:

(1) "Bail bond agency" means:

(a) The building where a licensee maintains an office and where all records required by ss. 648.34 and 648.36 are maintained; or

(b) An entity that:

1. Charges a fee or premium to release an accused defendant or detainee from jail; or

2. Engages in or employs others to engage in any activity that may be performed only by a licensed and appointed bail bond agent.

(2) "Bail bond agent" means a limited surety agent or a professional bail bond agent as hereafter defined.

(3) "Managing general agent" means any individual, partnership, association, or corporation appointed or employed by an insurer to supervise or manage the bail bond business written in this state by limited surety agents appointed by the insurer.

(4) "Insurer" means any domestic, foreign, or alien surety company which has been authorized to transact surety business in this state.

(5) "Limited surety agent" means any individual appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings who receives or is promised money or other things of value therefor.

(6) "Primary bail bond agent" means a licensed bail bond agent who is responsible for the

overall operation and management of a bail bond agency location and whose responsibilities include hiring and supervising all individuals within that location. A bail bond agent may be designated as primary bail bond agent for only one bail bond agency location.

(7) "Professional bail bond agent" means any person who pledges United States currency, United States postal money orders, or cashier's checks as security for a bail bond in connection with a judicial proceeding and receives or is promised therefor money or other things of value.

(8) "Temporary bail bond agent" means a person employed by a bail bond agent or agency, insurer, or managing general agent, and such licensee has the same authority as a licensed bail bond agent, including presenting defendants in court; apprehending, arresting, and surrendering defendants to the proper authorities, while accompanied by a supervising bail bond agent or an agent from the same agency; and keeping defendants under necessary surveillance. However, a temporary licensee may not execute or sign bonds, handle collateral receipts, or deliver bonds to appropriate authorities. A temporary licensee may not operate an agency or branch agency separate from the location of the supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed. This does not affect the right of a bail bond agent or insurer to hire counsel or to obtain the assistance of law enforcement officers.

648.26. Department of Financial Services; administration

(1) The department shall administer the provisions of this chapter as provided in this chapter.

(a) The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring powers or duties upon it.

(b) The department may employ and discharge such employees, examiners, counsel, and other assistants as shall be deemed necessary, and it shall prescribe their duties; their compensation shall be the same as other state employees receive for similar services.

(2) The department shall adopt a seal by which

its proceedings are authenticated. Any written instrument purporting to be a copy of any action, proceeding, or finding of fact by the department, or any record of the department authenticated by the seal, shall be accepted by all the courts of this state as prima facie evidence of the contents thereof.

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from the provisions of s. 119.07(1) until such investigation is completed or ceases to be active. For the purpose of this section, an investigation is considered "active" while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency.

648.27. Licenses and appointments; general

(1) A license may not be issued except in compliance with this chapter, and may not be issued except to an individual. A firm, partnership, association, or corporation, as such, may not be licensed.

(2) For the protection of the people of this state, the department may not issue, renew, or permit to exist any license or appointment except in compliance with this chapter. The department may not issue, renew, or permit to exist a license or appointment for any individual found to be untrustworthy or incompetent who has had his or her eligibility to hold a license or appointment revoked, or who has not established to the satisfaction of the department that he or she is qualified therefor in accordance with this chapter.

(3) The department may propound any reasonable interrogatories to an applicant for a license or appointment under this chapter or on any renewal thereof, relating to his or her qualifications, residence, prospective place of business, and any other matters which are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The department may also conduct any reasonable inquiry or

investigation it sees fit, relative to the determination of the applicant's fitness to be licensed or appointed or to continue to be licensed or appointed. Upon the request of the department, a law enforcement agency shall inform the department of any specific criminal charge filed against any applicant and the final disposition of such charge.

(4) If upon the basis of the completed application for a license or appointment and such further inquiry or investigation the department deems the applicant to be unfit as to character and background or lacking in one or more of the required qualifications for the license or appointment, the department shall disapprove the application.

(5)(a) The license of a bail bond agent shall continue in force, without further examination unless deemed necessary by the department, until suspended, revoked, or otherwise terminated.

(b) The license of a temporary bail bond agent shall continue in force until suspended, revoked, or otherwise terminated.

(6) The original license issued to a licensee under this chapter shall remain outstanding and in effect for so long as the license represented thereby continues in force as provided in this section. The department may at any time require the licensee to produce his or her department-issued photo identification.

(7) Any person who represents a surety company, whose duties are restricted to bail bonds, and who comes under the definition of "service representative" as provided in s. 626.015 shall be licensed and appointed as a bail bond agent.

(8) An application for a managing general agent's license must be made by an insurer who proposes to employ or appoint an individual, partnership, association, or corporation as a managing general agent. Such application shall contain the information required by s. 626.744, and the applicant shall pay the same fee as a managing general agent licensed pursuant to that section. An individual who is a managing general agent must also be licensed as a bail bond agent. In the case of an entity, at least one owner, officer, or director at each office location must be licensed as a bail bond agent.

(9) If, upon application for an appointment and such investigation as the department may make, it appears to the department that an individual has been actively engaged or is currently actively engaged in bail bond activities without being appointed as required, the department may, if it finds that such failure to be appointed is an error on the part of the insurer or employer so represented, issue or authorize the issuance of the appointment as applied for, but subject to the condition that, before the appointment is issued, all fees and taxes which would have been due had the applicant been so appointed during such current and prior periods, together with a continuation fee for such current and prior terms of appointment, shall be paid to the department. Failure to notify the department within the required time period shall result in the appointing entity being assessed a delinquent fee of \$250. Delinquent fees shall be paid by the appointing entity and shall not be charged to the appointee.

648.39. Termination of appointment of managing general agents, bail bond agents, and temporary bail bond agents

(1) An insurer who terminates the appointment of a managing general agent, bail bond agent, or temporary bail bond agent shall, within 10 days after such termination, file written notice thereof with the department together with a statement that it has given or mailed notice to the terminated agent. Such notice filed with the department must state the reasons, if any, for such termination. Information so furnished the department is confidential and exempt from the provisions of s. 119.07(1).

(2) Each insurer shall, within 5 days after terminating the appointment of any managing general agent, bail bond agent, or temporary bail bond agent, give written notice thereof to each clerk of the circuit court and sheriff with whom such person is registered.

(3) An insurer that terminates the appointment of a managing general agent, bail bond agent, or temporary bail bond agent may authorize such person to continue to attempt the arrest and surrender of a defendant for whom a surety bond had been written by the bail bond agent prior to termination and to seek discharge of forfeitures and judgments as provided in chapter 903.

648.41. Termination of appointment of temporary bail bond agents

A bail bond agent, insurer, or managing general agent terminating the appointment of a temporary bail bond agent must, within 10 days, file written notice thereof with the department, together with a statement that notice has been given or mailed to the temporary bail bond agent. Such notice filed with the department shall state the reasons, if any, for such termination. Information so furnished the department is confidential and exempt from the provisions of s. 119.07(1).

648.42. Registration of bail bond agents

A bail bond agent may not become a surety on an undertaking unless he or she has registered in the office of the sheriff and with the clerk of the circuit court in the county in which the bail bond agent resides. The bail bond agent may register in a like manner in any other county, and any bail bond agent shall file a certified copy of his or her appointment by power of attorney from each insurer which he or she represents as a bail bond agent with each of such officers. Registration and filing of a certified copy of renewed power of attorney shall be performed by April 1 of each odd-numbered year. The clerk of the circuit court and the sheriff shall not permit the registration of a bail bond agent unless such bail bond agent is currently licensed and appointed by the department. Nothing in this section shall prevent the registration of a temporary licensee at the jail for the purposes of enabling the licensee to perform the duties under such license as set forth in this chapter.

648.421. Notice of change of address or telephone number

Each licensee under this chapter shall notify in writing the department, insurer, managing general agent, and the clerk of each court in which the licensee is registered within 10 working days after a change in the licensee's principal business address or telephone number. The licensee shall also notify the department within 10 working days after a change of the name, address, or telephone number of each agency or firm for which he or she writes bonds and any change in the licensee's name, home address, or telephone number.

648.42. Registration of bail bond agents

A bail bond agent may not become a surety on an undertaking unless he or she has registered in the office of the sheriff and with the clerk of the circuit court in the county in which the bail bond agent resides. The bail bond agent may register in a like manner in any other county, and any bail bond agent shall file a certified copy of his or her appointment by power of attorney from each insurer which he or she represents as a bail bond agent with each of such officers. Registration and filing of a certified copy of renewed power of attorney shall be performed by April 1 of each odd-numbered year. The clerk of the circuit court and the sheriff shall not permit the registration of a bail bond agent unless such bail bond agent is currently licensed and appointed by the department. Nothing in this section shall prevent the registration of a temporary licensee at the jail for the purposes of enabling the licensee to perform the duties under such license as set forth in this chapter

648.43. Power of attorney; to be approved by department; filing of copies; notification of transfer bond

(1) Every insurer engaged in the writing of bail bonds through bail bond agents in this state shall submit and have approved by the department a sample power of attorney, which will be the only form of power of attorney the insurer will issue to bail bond agents in this state.

(2) Every professional bail bond agent who authorizes a licensed professional bail bond agent directly employed and appointed by him or her to sign his or her name to bonds must file a copy of the power of attorney given to the appointed professional bail bond agent with the sheriff and the clerk of the circuit court in the county in which he or she resides and with the department. Such power of attorney shall remain in full force and effect until written notice revoking the power of attorney has been received by the above-named officials.

(3) Every bail bond agent who executes or countersigns a transfer bond shall indicate in writing on the bond the name and address of the referring bail bond agent.

648.44. Prohibitions; penalty

(1) A bail bond agent or temporary bail bond agent may not:

(a) Suggest or advise the employment of, or name for employment, any particular attorney to represent his or her principal.

(b) Directly or indirectly solicit business in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court. The term "solicitation" includes the distribution of business cards, print advertising, or other written or oral information directed to prisoners or potential indemnitors, unless a request is initiated by the prisoner or a potential indemnitor. Permissible print advertising in the jail is strictly limited to a listing in a telephone directory and the posting of the bail bond agent's or agency's name, address, and telephone number in a designated location within the jail.

(c) Initiate in-person or telephone solicitation after 9:00 p.m. or before 8:00 a.m., in the case of domestic violence cases, at the residence of the detainee or the detainee's family. Any solicitation not prohibited by this chapter must comply with the telephone solicitation requirements in ss. 501.059(2) and (4), 501.613, and 501.616(6).

(d) Wear or display any identification other than the department issued or approved license or approved department identification, which includes a citation of the licensee's arrest powers, in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court.

(e) Pay a fee or rebate or give or promise anything of value to a jailer, police officer, peace officer, or committing trial court judge or any other person who has power to arrest or to hold in custody or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment thereof.

(f) Pay a fee or rebate or give anything of value to an attorney in a bail bond matter, except in defense of any action on a bond.

(g) Pay a fee or rebate or give or promise

anything of value to the principal or anyone in his or her behalf.

(h) Participate in the capacity of an attorney at a trial or hearing of one on whose bond he or she is surety.

(i) Loiter in or about a jail, courthouse, or where prisoners are confined.

(j) Accept anything of value from a principal for providing a bail bond except the premium and transfer fee authorized by the office, except that the bail bond agent may accept collateral security or other indemnity from the principal or another person in accordance with the provisions of s. 648.442, together with documentary stamp taxes, if applicable. No fees, expenses, or charges of any kind shall be permitted to be deducted from the collateral held or any return premium due, except as authorized by this chapter or rule of the department or commission. A bail bond agent may, upon written agreement with another party, receive a fee or compensation for returning to custody an individual who has fled the jurisdiction of the court or caused the forfeiture of a bond.

(k) Write more than one power of attorney per charge on a bond, except in the case of a cosurety, unless the power of attorney prohibits a cosurety.

(l) Execute a bond in this state on his or her own behalf.

(m) Execute a bond in this state if a judgment has been entered on a bond executed by the bail bond agent, which has remained unpaid for 35 days, unless the full amount of the judgment is deposited with the clerk in accordance with s. 903.27(5).

(n) Make a statement or representation to a court, unless such statement or representation is under oath. Such statement or representation may not be false, misleading, or deceptive.

(o) Attempt to collect, through threat or coercion, amounts due for the payment of any indebtedness related to the issuance of a bail bond in violation of s. 559.72.

(p) Conduct bail bond business with any person, other than the defendant, on the grounds of the jail or courthouse for the purpose of executing a

bond.

(2) The following persons or classes shall not be bail bond agents, temporary bail bond agents, or employees of a bail bond agent or a bail bond business and shall not directly or indirectly receive any benefits from the execution of any bail bond:

(a) Jailers or persons employed in any jail.

(b) Police officers or employees of any police department or law enforcement agency.

(c) Committing trial court judges, employees of a court, or employees of the clerk of any court.

(d) Sheriffs and deputy sheriffs or employees of any sheriff's department.

(e) Attorneys.

(f) Persons having the power to arrest or persons who have authority over or control of federal, state, county, or municipal prisoners.

(3) A bail bond agent may not sign or countersign in blank any bond, give a power of attorney to, or otherwise authorize, anyone to countersign his or her name to bonds unless the person so authorized is a licensed and appointed bail bond agent directly employed by the bail bond agent giving such power of attorney.

(4) A place of business, including a branch office, may not be established, opened, or maintained unless it is under the active full-time charge of a licensed and appointed bail bond agent.

(5) Except as between licensed and appointed bail bond agents, a bail bond agent may not divide with others, or share in, any commissions payable on account of any bail bond.

(6)(a) No bail bond agency shall advertise as or hold itself out to be a bail bond or surety company.

(b) Any misleading or false advertisement or deceptive trade practice is prohibited as provided in part IX of chapter 626.

(c) The advertisement of reduced premium rates is prohibited.

(d) After October 1, 2002, a bail bond agency

may not use a name that implies a reduced rate of premium.

(e) 1. A bail bond agent may not make material misrepresentations or omissions in statements or use advertisements that constitute material misrepresentations of facts, create unjust expectations concerning services, or make improper comparisons.

2. Bail bond agents may not own or advertise under firm names that are false, misleading, or deceptive, or use trade names that imply a connection with any government agency.

3. A bail bond agent may not use any advertisement or advertise under any name that includes the word "free".

4. A bail bond agent may not advertise under a trade name unless the name and address appear on the agent's letterhead or business cards. Such name must be registered with the department.

(7) Any permissible advertising by a bail bond agent or agency must include the address of record filed with the department.

(8)(a) A person who has been convicted of or who has pleaded guilty or no contest to a felony or a crime involving moral turpitude or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, regardless of whether adjudication of guilt was withheld, may not act in any capacity for a bail bond agency or participate as a director, officer, manager, agent, contractor, or employee of any bail bond agency or office thereof or exercise direct or indirect control in any manner in such agency or office or own shares in any closely held corporation which has any interest in any bail bond business. Such restrictions on engaging in the bail bond business shall continue to apply during a pending appeal.

(b) Any person who violates the provisions of paragraph (a) or any person who knowingly permits a person who has been convicted of or who has pleaded guilty or no contest to a crime as described in paragraph (a) to engage in the bail bond business as prohibited in paragraph (a) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any law enforcement agency, state

attorney's office, court clerk, or insurer that is aware that a bail bond agent or temporary bail bond agent has been convicted of or who has pleaded guilty or no contest to a crime as described in paragraph (a) shall notify the department of this fact.

(d) Upon the filing of an information or indictment against a bail bond agent or temporary bail bond agent, the state attorney or clerk of the circuit court shall immediately furnish the department a certified copy of the information or indictment.

(9)(a) Any person who violates any provisions of paragraph (1)(e), paragraph (1)(f), paragraph (1)(g), paragraph (1)(j), or paragraph (1)(n), or subsection (2) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who violates the provisions of paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), paragraph (1)(h), paragraph (1)(k), paragraph (1)(m), paragraph (1)(o), paragraph (1)(p), subsection (3), subsection (4), or subsection (5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

648.442. Collateral security

(1) Collateral security or other indemnity accepted by a bail bond agent, except a promissory note or an indemnity agreement, shall be returned upon final termination of liability on the bond. Such collateral security or other indemnity required by the bail bond agent must be reasonable in relation to the amount of the bond. Collateral security may not be used by the bail bond agent for personal benefit or gain and must be returned in the same condition as received. A bail bond agent may accept collateral security in excess of \$50,000 cash per bond, provided any amount over \$50,000 cash is payable to the insurer in the form of a cashier's check, United States postal money order, certificates of deposit, or wire transfer and is remitted to and held by the insurer. A copy of IRS Form 8300 must be retained as part of the defendant's file if it is otherwise required. A quitclaim deed for property may not be taken as collateral. Other acceptable forms of security or indemnity may consist of the following:

(a) A promissory note;

- (b) An indemnity agreement;
- (c) A real property mortgage in the name of the insurer;
- (d) Any Uniform Commercial Code filing; or
- (e) Any other type of security approved by the department. The department may approve other security only if, after considering the liquidity and other characteristics of the security, it determines that the security is of a type which increases the probability that the defendant will in fact appear in court or increases the probability that the defendant will be subsequently apprehended by the bail bond agent.

(2) When a bail bond agent accepts collateral, a written, numbered receipt shall be given, and this receipt shall give in detail a full account of the collateral received. The bail bond agent shall also give copies of documents rendered under subsection (1) to the indemnitor.

(3) Collateral security shall be received and held in the insurer's name by the bail bond agent in a fiduciary capacity and, prior to any forfeiture of bail, shall be kept separate and apart from any other funds or assets of such bail bond agent. When collateral security in excess of \$5,000 cash or its equivalent is received by a bail bond agent, the entire amount shall be immediately forwarded to the insurer. Such collateral security may be placed in an interest-bearing account to accrue to the benefit of the person giving the collateral security, and the bail bond agent, insurer, or managing general agent may not make any pecuniary gain on the collateral security deposited. Any such account shall be in a depository office of a financial institution located in this state. The insurer shall be liable for all collateral received. If the bail bond agent or managing general agent fails to return the collateral to the indemnitor upon final termination of liability on the bond, the surety shall be liable for the collateral and shall return the actual collateral to the indemnitor or, in the event that the surety cannot locate the collateral, the surety shall pay the indemnitor pursuant to the provisions of this section.

(4) When the obligation of the surety on the bond or bonds has been released in writing by the court, the collateral shall be returned to the rightful owner named in the collateral receipt

unless another disposition is provided for by legal assignment of the right to receive the collateral to another person.

(5) If a forfeiture occurs, the agent or insurer shall give 10 days' written notice of intent to convert the collateral deposit into cash to satisfy the forfeiture to the indemnitor and principal. Notice shall be sent by certified mail to the last known address of the indemnitor and principal.

(6) The bail bond agent or insurer must convert the collateral to cash within a reasonable period of time and return that which is in excess of the face value of the bond minus the actual and reasonable expenses of converting the collateral to cash. In no event shall these expenses exceed 20 percent of the face value of the bond. However, upon motion and proof that the actual, reasonable expenses exceed 20 percent, the court may allow recovery of the full amount of such actual, reasonable expenses. If there is a remission of a forfeiture, which had required the surety to pay the bond to the court, the surety shall pay to the indemnitor the value of any collateral received for the bond, minus any actual expenses and costs permitted herein.

(7) No bail bond agent or insurer shall solicit or accept a waiver of any of the provisions of this section or enter into any agreement as to the value of the collateral.

(8) Prior to the appointment of a bail bond agent who is currently or was previously appointed by another insurer, the bail bond agent must file with the department a sworn and notarized affidavit, on a form prescribed by the department, stating that:

(a) There has been no loss, misappropriation, conversion, or theft of any collateral being held by the agent in trust for any insurer by which the agent is currently or was previously appointed; and

(b) All collateral being held in trust by the agent and all records for any insurer by which the agent is currently or was previously appointed are available for immediate audit and inspection by the department, the insurer, or the managing general agent, and will upon demand of the department or insurer be transmitted to the insurer for whom the collateral is being held in trust.

(9) The department shall establish by rule the form of the affidavit and the statement

identifying the amount and source of the security as specified in s. 903.14.

(10) An indemnity agreement may not be entered into between a principal and either a surety or any agent of the surety, and an application may not be accepted either by a bail bond agent engaged in the bail bond business or by a surety company for a bail bond in which an indemnity agreement is required between a principal and either a surety or any agent of such surety, unless the indemnity agreement reads as follows: "For good and valuable consideration, the undersigned principal agrees to indemnify and hold harmless the surety company or its agent for all losses not otherwise prohibited by law or by rules of the Department of Financial Services."

648.4425. Notice

(1) Upon issuing a bond, the bail bond agent shall provide to the principal and, if applicable, to the party rendering collateral or indemnifying the surety an informational notice which shall include:

(a) A statement noting with particularity the restrictions, if any, placed on the principal as a condition of the bond;

(b) A statement of the bail bond agent's powers relating to the cancellation of the bond and recommitment of the principal; and

(c) The name, address, and telephone number of the department for complaints or inquiries.

(2) Any bail bond agent that surrenders or recommits a defendant must provide the defendant with a statement of surrender on a department-prescribed form. The statement must be signed by the agent and must state the reason for surrender. The statement must be attached to the surrender form with a copy provided to the defendant and a copy maintained by the agent in the defendant's file.

(3) The department shall prescribe forms to administer this section.

648.55. All bail bond agents of same agency; licensed by same companies

All bail bond agents who are members of the same agency, partnership, corporation, or

association shall be appointed to represent the same companies. If any member of such agency, partnership, corporation, or association is licensed and appointed as a professional bail bond agent, all members thereof shall be so licensed and appointed. It is the responsibility of each insurer to require that each bail bond agent in an agency is appointed to represent that particular insurer.

648.571. Failure to return collateral; penalty

(1) A bail bond agent who has taken collateral or an insurer or managing general agent who holds collateral as security for a bail bond shall, upon demand, make a written request for a discharge of the bond to be delivered to the surety or the surety's agent. A copy of the written request for discharge must be given to the indemnitor or the person making the request for the collateral, and a copy must be maintained in the agent's file. If a discharge is provided to the surety or the surety's agent pursuant to chapter 903, the collateral shall be returned to the indemnitor within 21 days after the discharge is provided.

(2) Upon demand, following the written request for discharge and upon diligent inquiry by the surety or surety's agent to determine whether the bond has been discharged, the failure of the court to provide a written discharge to the surety or surety's agent pursuant to chapter 903 within 7 days automatically cancels the bond, and the collateral shall be returned to the indemnitor within 21 days after the written request for discharge.

(3)(a) Fees or charges other than those provided in this chapter or by rule of the department or commission may not be deducted from the collateral due.

(b) 1. The bail bond agent may charge the credit card fee imposed in connection with the use of the credit card for payment of collateral if the fee is clearly shown on the collateral receipt and is acknowledged by the person tendering the credit card.

2. The prevailing schedule of credit card fees must be conspicuously posted in the lobby of the bail bond agency, and a copy must be provided to the person tendering the credit card.

(c) Allowable expenses incurred in apprehending a defendant because of a bond forfeiture or judgment under s. 903.29 may be deducted if such expenses are accounted for. The failure to return collateral under these terms is punishable as follows:

1. If the collateral is of a value less than \$100, as provided in s. 775.082(4)(a).
2. If the collateral is of a value of \$100 or more, as provided in s. 775.082(3)(d).
3. If the collateral is of a value of \$1,500 or more, as provided in s. 775.082(3)(c).
4. If the collateral is of a value of \$10,000 or more, as provided in [s. 775.082\(3\)\(b\)](#).

(4) In addition to the criminal penalties and any other penalties provided in this chapter, the department shall impose against any person violating this section an administrative fine of five times the dollar amount of the collateral.

903.011. "Bail" and "bond" defined

As used in this chapter, the terms "bail" and "bond" include any and all forms of pretrial release.

903.02. Actions following denial; changes in bail conditions or bond amount; separation by charge or offense

(1) If application for bail is made to an authorized court and denied, no court of inferior jurisdiction shall admit the applicant to bail unless such court of inferior jurisdiction is the court having jurisdiction to try the defendant.

(2) No judge of a court of equal or inferior jurisdiction may remove a condition of bail or reduce the amount of bond required, unless such judge:

(a) Imposed the conditions of bail or set the amount of bond required;

(b) Is the chief judge of the circuit in which the defendant is to be tried;

(c) Has been assigned to preside over the criminal trial of the defendant; or

(d) Is the designee of the chief judge and a judge has not yet been assigned to the criminal trial.

(3) The term "court," as used in this chapter, includes all state courts.

(4) Any judge setting or granting monetary bail shall set a separate and specific bail amount for each charge or offense. When bail is posted, each charge or offense requires a separate bond.

History.--s. 45, ch. 19554, 1939; CGL 1940 Supp. 8663(45); s. 1, ch. 70-86; s. 1, ch. 77-119; s. 37, ch. 82-175; s. 40, ch. 84-103; s. 1, ch. 2006-279.

903.03. Jurisdiction of trial court to admit to bail; duties and responsibilities of Department of Corrections

(1) After a person is held to answer by a trial court judge, the court having jurisdiction to try the defendant shall, before indictment, affidavit, or information is filed, have jurisdiction to hear and decide all preliminary motions regarding

bail and production or impounding of all articles, writings, moneys, or other exhibits expected to be used at the trial by either the state or the defendant.

(2)(a) The Department of Corrections shall have the authority on the request of a circuit court when a person charged with a noncapital crime or bailable offense is held, to make an investigation and report to the court, including:

1. The circumstances of the accused's family, employment, financial resources, character, mental condition, and length of residence in the community;

2. The accused's record of convictions, of appearance at court proceedings, of flight to avoid prosecution, or failure to appear at court proceedings; and

3. Other facts that may be needed to assist the court in its determination of the indigency of the accused and whether she or he should be released on her or his own recognizance.

(b) The court shall not be bound by the recommendations.

History.--s. 46, ch. 19554, 1939; CGL 1940 Supp. 8663(46); s. 1, ch. 67-151; s. 21, ch. 70-339; s. 1, ch. 70-439; s. 5, ch. 75-301; s. 13, ch. 77-120; s. 22, ch. 79-3; s. 1474, ch. 97-102; s. 30, ch. 2004-11.

903.035. Applications for bail; information provided; hearing on application for modification; penalty for providing false or misleading information or omitting material information

(1)(a) All information provided by a defendant, in connection with any application for or attempt to secure bail, to any court, court personnel, or individual soliciting or recording such information for the purpose of evaluating eligibility for, or securing, bail for the defendant, under circumstances such that the defendant knew or should have known that the information was to be used in connection with an application for bail, shall be accurate, truthful, and complete without omissions to the best knowledge of the defendant.

(b) The failure to comply with the provisions of paragraph (a) may result in the revocation or modification of bail.

(2) An application for modification of bail on any felony charge must be heard by a court in person, at a hearing with the defendant present, and with at least 3 hours' notice to the state attorney.

(3) Any person who intentionally provides false or misleading material information or intentionally omits material information in connection with an application for bail or for modification of bail is guilty of a misdemeanor or felony which is one degree less than that of the crime charged for which bail is sought, but which in no event is greater than a felony of the third degree, punishable as provided in [s. 775.082](#) or [s. 775.083](#).
History.--s. 40, ch. 82-175; s. 1475, ch. 97-102.

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

History.--s. 41, ch. 82-175; s. 42, ch. 84-103; s. 4, ch. 86-151; s. 1476, ch. 97-102; s. 1, ch. 2000-178.

903.046. Purpose of and criteria for bail determination

(1) The purpose of a bail determination in criminal proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to protect the community against unreasonable danger from the criminal defendant.

(2) When determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider:

(a) The nature and circumstances of the offense charged.

(b) The weight of the evidence against the defendant.

(c) The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition.

(d) The defendant's past and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings. However, any defendant who had failed to appear on the day of any required court proceeding in the case at issue, but who had later voluntarily appeared or surrendered, shall not be eligible for a recognizance bond; and any defendant who failed to appear on the day of any required court proceeding in the case at issue and who was later arrested shall not be eligible for a recognizance bond or for any form of bond which does not require a monetary undertaking or commitment equal to or greater than \$2,000 or twice the value of the monetary commitment or undertaking of the original bond, whichever is greater. Notwithstanding anything in this section, the court has discretion in determining conditions of release if the defendant proves circumstances beyond his or her control for the failure to appear. This section may not be construed as imposing additional duties or obligations on a governmental entity related to monetary bonds.

(e) The nature and probability of danger which the defendant's release poses to the community.

(f) The source of funds used to post bail.

(g) Whether the defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence.

(h) The street value of any drug or controlled substance connected to or involved in the criminal charge. It is the finding and intent of the Legislature that crimes involving drugs and other controlled substances are of serious social concern, that the flight of defendants to avoid prosecution is of similar serious social concern, and that frequently such defendants are able to

post monetary bail using the proceeds of their unlawful enterprises to defeat the social utility of pretrial bail. Therefore, the courts should carefully consider the utility and necessity of substantial bail in relation to the street value of the drugs or controlled substances involved.

(i) The nature and probability of intimidation and danger to victims.

(j) Whether there is probable cause to believe that the defendant committed a new crime while on pretrial release.

(k) Any other facts that the court considers relevant.

History.--s. 43, ch. 84-103; s. 12, ch. 84-363; s. 2, ch. 2006-279.

903.047. Conditions of pretrial release

(1) As a condition of pretrial release, whether such release is by surety bail bond or recognizance bond or in some other form, the defendant shall:

(a) Refrain from criminal activity of any kind.

(b) Refrain from any contact of any type with the victim, except through pretrial discovery pursuant to the Florida Rules of Criminal Procedure.

(c) Comply with all conditions of pretrial release.

(2) Upon motion by the defendant when bail is set, or upon later motion properly noticed pursuant to law, the court may modify the condition required by paragraph (1)(b) if good cause is shown and the interests of justice so require. The victim shall be permitted to be heard at any proceeding in which such modification is considered, and the state attorney shall notify the victim of the provisions of this subsection and of the pendency of any such proceeding.

History.--s. 43, ch. 84-103; s. 12, ch. 84-363; s. 2, ch. 2006-279.

903.0471. Violation of condition of pretrial release

Notwithstanding [s. 907.041](#), a court may, on its own motion, revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release.

History.--s. 3, ch. 2000-178.

903.05. Qualification of sureties

A surety for the release of a person on bail, other than a company authorized by law to act as a surety, shall be a resident of the state or own real estate within the state.

History.--s. 48, ch. 19554, 1939; CGL 1940 Supp. 8663(48); s. 21, ch. 70-339.

903.06. Validity of undertaking by minor

Minors may bind themselves by a bond to secure their release on bail in the same manner as persons sui juris.

History.--s. 49, ch. 19554, 1939; CGL 1940 Supp. 8663(49); s. 21, ch. 70-339.

903.08. Sufficiency of sureties

The combined net worth of the sureties, exclusive of any other bonds on which they may be principal, or surety and property exempt from execution, shall be at least equal to the amount specified in the undertaking.

History.--s. 51, ch. 19554, 1939; CGL 1940 Supp. 8663(51); s. 22, ch. 70-339.

903.09. Justification of sureties

(1) A surety shall execute an affidavit stating that she or he possesses the qualifications and net worth required to become a surety. The affidavit shall describe the surety's property and any encumbrances and shall state the number and amount of any bonds entered into by the surety at any court that remain undischarged.

(2) A bond agent, as defined in [s. 648.25\(2\)](#), shall justify her or his suretyship by attaching a copy of the power of attorney issued by the company to the bond or by attaching to the bond United States currency, a United States postal money order, or a cashier's check in the amount of the bond; but the United States currency, United States postal money order, or cashier's check cannot be used to secure more than one bond. Nothing herein shall prohibit two or more qualified sureties from each posting any portion of a bond amount, and being liable for only that amount, so long as the total posted by all cosureties is equal to the amount of bond required.

History.--s. 52, ch. 19554, 1939; CGL 1940 Supp. 8663(52); s. 1, ch. 57-63; s. 23, ch. 70-

339; s. 44, ch. 84-103; s. 5, ch. 86-151; s. 1477, ch. 97-102; s. 1919, ch. 2003-261.

903.101. Sureties; licensed persons; to have equal access

Subject to rules adopted by the Department of Financial Services and by the Financial Services Commission, every surety who meets the requirements of [ss. 903.05](#), [903.06](#), [903.08](#), and [903.09](#), and every person who is currently licensed by the Department of Financial Services and registered as required by [s. 648.42](#) shall have equal access to the jails of this state for the purpose of making bonds.

History.--s. 1, ch. 61-406; ss. 13, 35, ch. 69-106; s. 24, ch. 70-339; s. 1, ch. 70-439; s. 1920, ch. 2003-261.

903.105. Appearance bonds

Any criminal defendant who is required to meet monetary bail or bail with any monetary component may satisfy such bail by providing a surety bond as otherwise provided by law or by providing an appearance bond as follows:

(1) Any defendant posting an appearance bond shall apply therefor in writing. Each defendant charged with a felony of the second degree or higher, and each defendant appearing before a court in connection with bail, shall sign the application upon oath in open court.

(2) After the application is completed and the quantity and other conditions of the bond are determined as required by law, the defendant may deposit with the clerk of the court before which the action is pending or with the sheriff, if designated by the clerk, a sum of money equal to 10 percent of the bond and any additional collateral for all or part of the remaining portion of the bond as the court may require.

(3) Upon depositing such sum and additional collateral and agreeing in writing to all nonmonetary conditions of the bond which the court may require, the defendant shall be released from custody subject to all conditions of release imposed by the court.

(4)(a) If the conditions of release have been performed and the defendant has been discharged from all obligations in the action, the clerk of the court shall return to the defendant, unless the court orders otherwise, 75 percent of the 10-percent sum deposited, plus any

additional required collateral, and shall retain as bail costs 25 percent of the 10-percent sum deposited. At the request of the defendant, the court may order the amount repayable to the defendant from such deposit to be paid to the defendant's attorney of record.

(b) Moneys retained by the clerk under this provision shall be disbursed as directed by the county commission for law enforcement, criminal justice, and criminal court operations relating to pretrial release, including, but not limited to, screening, supervision, and apprehension, subject to the following conditions:

1. The clerk must receive a sum equal to actual, demonstrable increased costs, if any, attributable to the implementation of this section.

2. Moneys distributed to the sheriff must be used for increased expenditures in connection with the apprehension of defendants who fail to appear as required.

(5) If a final judgment for a fine and court costs, or either a fine or court costs, is entered in an action in which a deposit has been made in accordance with this section, the balance of such deposit, after deduction of bail costs as provided for herein, shall be applied to the satisfaction of the judgment.

(6) In the event that this section becomes effective, the Supreme Court shall promulgate rules as necessary to implement this section.

History.--s. 47, ch. 82-175.

¹Note.--Pursuant to s. 73, ch. 82-175, effective "if and only if chapter 648 . . . is . . . repealed, in which event [this] section shall take effect upon the effective date of such repeal."

903.131. Bail on appeal, revocation; recommitment

If a person admitted to bail on appeal commits and is convicted of a separate felony while free on appeal, the bail on appeal shall be revoked and the defendant committed forthwith.

History.--s. 1, ch. 69-2.

903.132. Bail on appeal; conditions for granting; appellate review

(1) No person may be admitted to bail upon appeal from a conviction of a felony unless the

defendant establishes that the appeal is taken in good faith, on grounds fairly debatable, and not frivolous. However, in no case shall bail be granted if such person has previously been convicted of a felony, the commission of which occurred prior to the commission of the subsequent felony, and such person's civil rights have not been restored or if other felony charges are pending against the person and probable cause has been found that the person has committed the felony or felonies at the time the request for bail is made.

(2) An order by a trial court denying bail to a person pursuant to the provisions of subsection (1) may be appealed as a matter of right to an appellate court, and such appeal shall be advanced on the calendar of the appellate court for expeditious review.

(3) In no case may an original appearance bond be continued for the appeal. To reflect the increased risk and probability of longer time considerations, there shall be a new undertaking of a bond for the appeal.

History.--s. 1, ch. 69-307; s. 1, ch. 76-138; s. 6, ch. 86-151; s. 1478, ch. 97-102.

903.133. Bail on appeal; prohibited for certain felony convictions

Notwithstanding the provisions of [s. 903.132](#), no person adjudged guilty of a felony of the first degree for a violation of [s. 782.04\(2\)](#) or [\(3\)](#), [s. 787.01](#), [s. 794.011\(4\)](#), [s. 806.01](#), [s. 893.13](#), or [s. 893.135](#), or adjudged guilty of a violation of [s. 794.011\(2\)](#) or [\(3\)](#), shall be admitted to bail pending review either by posttrial motion or appeal.

History.--s. 1, ch. 80-72; s. 1, ch. 82-392; s. 1, ch. 83-83; s. 172, ch. 83-216; s. 8, ch. 88-381; s. 2, ch. 89-281; s. 2, ch. 90-225; s. 18, ch. 93-156; s. 10, ch. 99-188; s. 23, ch. 2000-320; s. 5, ch. 2001-236; s. 1, ch. 2002-212; s. 15, ch. 2005-128.

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.

(2) A surety may maintain an action against the indemnitor only on agreements set forth in

the affidavit. In an action by the indemnitor to recover security or collateral, the surety shall have the right to retain only the security or collateral stated in the affidavit.

(3) A limited surety or licensed bond agent may file a statement in lieu of the affidavit required in subsection (1). Such statement must be filed within 30 days from the execution of the undertaking.

History.--s. 57, ch. 19554, 1939; CGL 1940 Supp. 8663(57); s. 1, ch. 65-492; s. 1, ch. 69-151; s. 25, ch. 70-339; s. 1479, ch. 97-102.

903.16. Deposit of money or bonds as bail

(1) A defendant who has been admitted to bail, or another person in the defendant's behalf, may deposit with the official authorized to take bail money or nonregistered bonds of the United States, the state, or a city, town, or county in the state, equal in market value to the amount set in the order and the personal bond of the defendant and an undertaking by the depositor if the money or bonds are deposited by another. The sheriff or other officials may remit money or bonds received to the clerk to be held by the clerk pending court action or return to the defendant or depositor. The clerk shall accept money or bonds remitted by the sheriff.

(2) Consent is conclusively presumed for the clerk of the circuit court to sell bonds deposited as bail after forfeiture of the bond.

History.--s. 59, ch. 19554, 1939; CGL 1940 Supp. 8663(59); s. 1, ch. 59-353; s. 26, ch. 70-339; s. 4, ch. 91-306; s. 1480, ch. 97-102.

903.17. Substitution of cash bail for other bail

When bail other than a deposit of money or bonds has been given, the defendant or the surety may deposit money or bonds as provided in [s. 903.16](#) and have the original bond canceled.

History.--s. 60, ch. 19554, 1939; CGL 1940 Supp. 8663(60); s. 27, ch. 70-339.

903.18. Bail after deposit of money or bonds

Bail by sureties may be substituted for a deposit

of money or bonds as bail any time before a breach of the bond.

History.--s. 61, ch. 19554, 1939; CGL 1940 Supp. 8663(61); s. 28, ch. 70-339.

903.20. Surrender of defendant

The defendant may surrender himself or herself or a surety may surrender the defendant any time before a breach of the bond.

History.--s. 61, ch. 19554, 1939; CGL 1940 Supp. 8663(61); s. 28, ch. 70-339.

903.21. Method of surrender; exoneration of obligors

(1) A surety desiring to surrender a defendant shall deliver a copy of the bond and the defendant to the official who had custody of the defendant at the time bail was taken or to the official into whose custody the defendant would have been placed if she or he had been committed. The official shall take the defendant into custody, as on a commitment, and issue a certificate acknowledging the surrender.

(2) When a surety presents the certificate and a copy of the bond to the court having jurisdiction, the court shall order the obligors exonerated and any money or bonds deposited as bail refunded. The surety shall give the state attorney 3 days' notice of application for an order of exoneration and furnish the state attorney a copy of the certificate and bond.

(3) The surety shall be exonerated of liability on the bond if it is determined prior to breach of the bond that the defendant is in any jail or prison and the surety agrees in writing to pay the transportation cost of returning the defendant to the jurisdiction of the court. For purposes of this subsection, "jurisdiction" means within the judicial circuit as prescribed by law. History.--s. 64, ch. 19554, 1939; CGL 1940 Supp. 8663(64); s. 30, ch. 70-339; s. 34, ch. 73-334; s. 7, ch. 86-151; s. 1482, ch. 97-102; s. 3, ch. 99-303.

903.22. Arrest of principal by surety before forfeiture

A surety may arrest the defendant before a forfeiture of the bond for the purpose of surrendering the defendant or the surety may authorize a peace officer to make the arrest by endorsing the authorization on a certified copy of the bond.

History.--s. 65, ch. 19554, 1939; CGL 1940 Supp. 8663(65); s. 31, ch. 70-339; s. 1483, ch. 97-102.

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

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

(a) The information, indictment, or affidavit was filed within 6 months from the date of arrest, and

(b) The clerk of court gave the surety at least 72 hours' notice, exclusive of Saturdays, Sundays, and holidays, before the time of the required appearance of the defendant. Notice shall not be necessary if the time for appearance is within 72 hours from the time of arrest, or if the time is stated on the bond.

(2)(a) If there is a breach of the bond, the court shall declare the bond and any bonds or money deposited as bail forfeited. The clerk of the court shall mail a notice to the surety agent and surety company in writing within 5 days of the forfeiture. A certificate signed by the clerk of the court or the clerk's designee, certifying that the notice required herein was mailed on a specified date and accompanied by a copy of the required notice, shall constitute sufficient proof that such mailing was properly accomplished as indicated therein. If such mailing was properly accomplished as evidenced by such certificate, the failure of the surety agent, of a company, or of a defendant to receive such mail notice shall not constitute a defense to such forfeiture and shall not be grounds for discharge, remission, reduction, set aside, or continuance of such forfeiture. The forfeiture shall be paid within 60 days of the date the notice was mailed.

(b) Failure of the defendant to appear at the time, date, and place of required appearance shall result in forfeiture of the bond. Such forfeiture shall be automatically entered by the clerk upon such failure to appear, and the clerk shall follow the procedures outlined in paragraph (a). However, the court may determine, in its discretion, in the interest of justice, that an appearance by the defendant on the same day as required does not warrant forfeiture of the bond; and the court may direct the clerk to set aside any such forfeiture which may have been entered. Any appearance by the defendant later than the required day

constitutes forfeiture of the bond, and the court shall not preclude entry of such forfeiture by the clerk.

(c) If there is a breach of the bond, the clerk shall provide, upon request, a certified copy of the warrant or *capias* to the bail bond agent or surety company.

(3) Sixty days after the forfeiture notice has been mailed:

(a) State and county officials having custody of forfeited money shall deposit the money in the fine and forfeiture fund established pursuant to [s. 142.01](#);

(b) Municipal officials having custody of forfeited money shall deposit the money in a designated municipal fund;

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

(4)(a) When a bond is forfeited, the clerk shall transmit the bond and any affidavits to the clerk of the circuit court in which the bond and affidavits are filed. The clerk of the circuit court shall record the forfeiture in the deed or official records book. If the undertakings and affidavits describe real property in another county, the clerk shall transmit the bond and affidavits to the clerk of the circuit court of the county where the property is located who shall record and return them.

(b) The bond and affidavits shall be a lien on the real property they describe from the time of recording in the county where the property is located for 2 years or until the final determination of an action instituted thereon within a 2-year period. If an action is not instituted within 2 years from the date of recording, the lien shall be discharged. The lien will be discharged 2 years after the recording even if an action was instituted within 2 years unless a *lis pendens* notice is recorded in the action.

(5) The court shall discharge a forfeiture within 60 days upon:

(a) A determination that it was impossible for the defendant to appear as required due to

circumstances beyond the defendant's control. The potential adverse economic consequences of appearing as required shall not be considered as constituting a ground for such a determination;

(b) A determination that, at the time of the required appearance, the defendant was adjudicated insane and confined in an institution or hospital or was confined in a jail or prison;

(c) Surrender or arrest of the defendant if the delay has not thwarted the proper prosecution of the defendant. If the forfeiture has been before discharge, the court shall direct remission of the forfeiture. The court shall condition a discharge or remission on the payment of costs and the expenses incurred by an official in returning the defendant to the jurisdiction of the court.

(6) The discharge of a forfeiture shall not be ordered for any reason other than as specified herein.

(7) The payment by a surety of a forfeiture under the provisions of this law shall have the same effect on the bond as payment of a judgment.

(8) If the defendant is arrested and returned to the county of jurisdiction of the court prior to judgment, the clerk, upon affirmation by the sheriff or the chief correctional officer, shall, without further order of the court, discharge the forfeiture of the bond. However, if the surety agent fails to pay the costs and expenses incurred in returning the defendant to the county of jurisdiction, the clerk shall not discharge the forfeiture of the bond. If the surety agent and the sheriff fail to agree on the amount of said costs, then the court, after notice to the sheriff and the state attorney, shall determine the amount of the costs.

History.--s. 69, ch. 19554, 1939; CGL 1940 Supp. 8663(69); s. 1, ch. 59-354; s. 2, ch. 61-406; s. 2, ch. 65-492; s. 1, ch. 69-150; s. 32, ch. 70-339; s. 1, ch. 77-388; s. 58, ch. 82-175; s. 173, ch. 83-216; s. 8, ch. 86-151; s. 1484, ch. 97-102; s. 4, ch. 99-303; s. 4, ch. 2000-178; s. 81, ch. 2004-265; s. 55, ch. 2005-236.

903.27. Forfeiture to judgment

(1) If the forfeiture is not paid or discharged by order of a court of competent jurisdiction within 60 days and the bond is secured other than by

money and bonds authorized in [s. 903.16](#), the clerk of the circuit court for the county where the order was made shall enter a judgment against the surety for the amount of the penalty and issue execution. Within 10 days, the clerk shall furnish the Department of Financial Services and the Office of Insurance Regulation of the Financial Services Commission with a certified copy of the judgment docket and shall furnish the surety company at its home office a copy of the judgment, which shall include the power of attorney number of the bond and the name of the executing agent. If the judgment is not paid within 35 days, the clerk shall furnish the Department of Financial Services, the Office of Insurance Regulation, and the sheriff of the county in which the bond was executed, or the official responsible for operation of the county jail, if other than the sheriff, two copies of the judgment and a certificate stating that the judgment remains unsatisfied. When and if the judgment is properly paid or an order to vacate the judgment has been entered by a court of competent jurisdiction, the clerk shall immediately notify the sheriff, or the official responsible for the operation of the county jail, if other than the sheriff, and the Department of Financial Services and the Office of Insurance Regulation, if the department and office had been previously notified of nonpayment, of such payment or order to vacate the judgment. The clerk shall also immediately prepare and record in the public records a satisfaction of the judgment or record the order to vacate judgment. If the defendant is returned to the county of jurisdiction of the court, whenever a motion to set aside the judgment is filed, the operation of this section is tolled until the court makes a disposition of the motion.

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

(3) Surety bail bonds may not be executed by a bail bond agent against whom a judgment has

been entered which has remained unpaid for 35 days and may not be executed for a company against whom a judgment has been entered which has remained unpaid for 50 days. No sheriff or other official who is empowered to accept or approve surety bail bonds shall accept or approve such a bond executed by such a bail bond agent or executed for such a company until such judgment has been paid.

(4) After notice of judgment against the surety given by the clerk of the circuit court, the surety or bail bond agent shall, within 35 days of the entry of judgment, submit to the clerk of the circuit court an amount equal to the judgment, unless the judgment has been set aside by the court within 35 days of the entry of judgment. If a motion to set aside the judgment has been filed pursuant to subsection (5), the amount submitted shall be held in escrow until such time as the court has disposed of the motion. The failure to comply with the provisions of this subsection constitutes a failure to pay the judgment.

(5) After notice of judgment against the surety given by the clerk of the circuit court, the surety or bail bond agent may within 35 days file a motion to set aside the judgment or to stay the judgment. It shall be a condition of any such motion and of any order to stay the judgment that the surety pay the amount of the judgment to the clerk, which amount shall be held in escrow until such time as the court has disposed of the motion to set aside the judgment. The filing of such a motion, when accompanied by the required escrow deposit, shall act as an automatic stay of further proceedings, including execution, until the motion has been heard and a decision rendered by the court.

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

History.--s. 70, ch. 19554, 1939; CGL 1940 Supp. 8663(70); ss. 3, 24, ch. 61-406; s. 3, ch. 65-492; ss. 13, 35, ch. 69-106; s. 1, ch. 69-149; s. 33, ch. 70-339; s. 1, ch. 70-439; s. 173, ch. 71-355; s. 34, ch. 73-334; s. 1, ch. 81-47; s. 59, ch. 82-175; s. 2, ch. 83-83; s. 45, ch. 84-103; s. 9, ch. 86-151; s. 88, ch. 89-360; s. 1485, ch. 97-102; s. 5, ch. 99-303; s. 1921, ch. 2003-261; s. 3, ch. 2006-279.

903.28. Remission of forfeiture; conditions

(1) On application within 2 years from forfeiture, the court shall order remission of the forfeiture if it determines that there was no breach of the bond.

(2) If the defendant surrenders or is apprehended within 90 days after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (8), shall direct remission of up to, but not more than, 100 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety, or the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant, and the delay has not thwarted the proper prosecution of the defendant. In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court have been deducted from the remission and when the delay has not thwarted the proper prosecution of the defendant.

(3) If the defendant surrenders or is apprehended within 180 days after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (8), shall direct remission of up to, but not more than, 95 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety, or the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant, and the delay has not thwarted the proper prosecution of the defendant. In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court have been deducted from the remission and when the delay has not thwarted the proper prosecution of the defendant.

(4) If the defendant surrenders or is apprehended within 270 days after forfeiture,

the court, on motion at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (8), shall direct remission of up to, but not more than, 90 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety, or the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant, and the delay has not thwarted the proper prosecution of the defendant. In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court have been deducted from the remission and when the delay has not thwarted the proper prosecution of the defendant.

(5) If the defendant surrenders or is apprehended within 1 year after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (8), shall direct remission of up to, but not more than, 85 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety, or the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant, and the delay has not thwarted the proper prosecution of the defendant. In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court have been deducted from the remission and when the delay has not thwarted the proper prosecution of the defendant.

(6) If the defendant surrenders or is apprehended within 2 years after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (8), shall direct remission of up to, but not more than, 50 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety, or the surety has

substantially attempted to procure or cause the apprehension or surrender of the defendant, and the delay has not thwarted the proper prosecution of the defendant. In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court have been deducted from the remission and when the delay has not thwarted the proper prosecution of the defendant.

(7) The remission of a forfeiture may not be ordered for any reason other than as specified herein.

(8) An application for remission must be accompanied by affidavits setting forth the facts on which it is founded; however, the surety must establish by further documentation or other evidence any claimed attempt at procuring or causing the apprehension or surrender of the defendant before the court may order remission based upon an attempt to procure or cause such apprehension or surrender. The clerk of the circuit court and the state attorney must be given 20 days' notice before a hearing on an application and be furnished copies of all papers, applications, and affidavits. Remission shall be granted on the condition of payment of costs, unless the ground for remission is that there was no breach of the bond.

(9) The clerk of the circuit court may enter into a contract with a private attorney or into an interagency agreement with a governmental agency to represent the clerk of the court in an action for the remission of a forfeiture under this section.

(10) The clerk of the circuit court is the real party in interest for all appeals arising from an action for the remission of a forfeiture under this section.

History.--ss. 71, 73, ch. 19554, 1939; CGL 1940 Supp. 8663(71), (73); s. 2, ch. 59-354; ss. 4, 6, ch. 61-406; s. 4, ch. 65-492; s. 34, ch. 70-339; s. 34, ch. 73-334; s. 60, ch. 82-175; s. 174, ch. 83-216; s. 46, ch. 84-103; s. 10, ch. 86-151; s. 6, ch. 99-303; s. 82, ch. 2004-265; s. 56, ch. 2005-236.

903.286. Return of cash bond; requirement to withhold unpaid fines, fees, and court costs

Notwithstanding the provisions of [s. 903.31\(2\)](#), the clerk of the court shall withhold from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent licensed pursuant to chapter 648 sufficient funds to pay any unpaid court fees, court costs, and criminal penalties. In the event that sufficient funds are not available to pay all unpaid court fees, court costs, and criminal penalties, the clerk of the court shall immediately obtain payment from the defendant or enroll the defendant in a payment plan pursuant to [s. 28.246](#).

History.--s. 57, ch. 2005-236.

903.29. Arrest of principal by surety after forfeiture

Within 2 years from the date of forfeiture of a bond, the surety may arrest the principal for the purpose of surrendering the principal to the official in whose custody she or he was at the time bail was taken or in whose custody the principal would have been placed had she or he been committed.

History.--s. 72, ch. 19554, 1939; CGL 1940 Supp. 8663(72); s. 1, ch. 59-192; s. 5, ch. 61-406; s. 5, ch. 65-492; s. 35, ch. 70-339; s. 47, ch. 84-103; s. 11, ch. 86-151; s. 1486, ch. 97-102.

903.31. Canceling the bond

(1) Within 10 business days after the conditions of a bond have been satisfied or the forfeiture discharged or remitted, the court shall order the bond canceled and, if the surety has attached a certificate of cancellation to the original bond, shall furnish an executed certificate of cancellation to the surety without cost. An adjudication of guilt or innocence of the defendant shall satisfy the conditions of the bond. The original appearance bond shall expire 36 months after such bond has been posted for the release of the defendant from custody. This subsection does not apply to cases in which a bond has been declared forfeited.

(2) The original appearance bond shall not be construed to guarantee deferred sentences, appearance during or after a presentence investigation, appearance during or after appeals, conduct during or appearance after admission to a pretrial intervention program, payment of fines, or attendance at educational or rehabilitation facilities the court otherwise

provides in the judgment. If the original appearance bond has been forfeited or revoked, the bond shall not be reinstated without approval from the surety on the original bond.

(3) In any case where no formal charges have been brought against the defendant within 365 days after arrest, the court shall order the bond canceled unless good cause is shown by the state.

History.--s. 74, ch. 19554, 1939; CGL 1940 Supp. 8663(74); s. 2, ch. 59-192; s. 36, ch. 70-339; s. 1, ch. 80-230; s. 12, ch. 86-151; s. 89, ch. 89-360; s. 7, ch. 99-303; s. 4, ch. 2000-229; s. 4, ch. 2006-279.

903.32. Defects in bond

(1) A bond shall not be held invalid because of any irregularity if it was taken by a legally authorized official and states the place of appearance and the amount of bail.

(2) If no day, or an impossible day, is stated in a bond for the defendant's appearance before a trial court judge for a hearing, the defendant shall be bound to appear 10 days after receipt of notice to appear by the defendant, the defendant's counsel, or any surety on the undertaking. If no day, or an impossible day, is stated in a bond for the defendant's appearance for trial, the defendant shall be bound to appear on the first day of the next term of court that will commence more than 3 days after the undertaking is given.

History.--s. 75, ch. 19554, 1939; CGL 1940 Supp. 8663(75); s. 37, ch. 70-339; s. 1487, ch. 97-102; s. 31, ch. 2004-11.

903.33. Bail not discharged for certain defects

The liability of a surety shall not be affected by his or her lack of any qualifications required by law, any agreement not expressed in the undertakings, or the failure of the defendant to join in the bond.

History.--s. 76, ch. 19554, 1939; CGL 1940 Supp. 8663(76); s. 38, ch. 70-339; s. 1488, ch. 97-102.

903.34. Who may admit to bail

In criminal actions instituted or pending in any state court, bonds given by defendants before trial until appeal shall be approved by a

committing trial court judge or the sheriff. Appeal bonds shall be approved as provided in [s. 924.15](#).

History.--s. 77, ch. 19554, 1939; CGL 1940 Supp. 8663(77); s. 39, ch. 70-339; s. 32, ch. 2004-11.

903.36. Guaranteed arrest bond certificates as cash bail

(1) A guaranteed traffic arrest bond certificate provided for in [s. 627.758](#) shall be accepted as bail in an amount not to exceed \$1,000 for the appearance of the person named in the certificate in any court to answer for the violation of a provision of chapter 316 or a similar traffic law or ordinance, except driving while under the influence of intoxicants, or any felony.

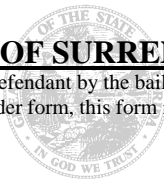
(2) The execution of a bail bond by a licensed general lines agent of a surety insurer for the automobile club or association member identified in the guaranteed traffic arrest bond certificate, as provided in [s. 627.758\(4\)](#), shall be accepted as bail in an amount not to exceed \$5,000 for the appearance of the person named in the certificate in any court to answer for the violation of a provision of chapter 316 or a similar traffic law or ordinance, except driving under the influence of alcoholic beverages, chemical substances, or controlled substances, as prohibited by [s. 316.193](#). Presentation of the guaranteed traffic arrest bond certificate and a power of attorney from the surety insurer for its licensed general lines agents is authorization for such agent to execute the bail bond.

(3) Automobile clubs and associations shall list the names and addresses of the licensed general lines agents of a surety insurer that may execute bail bonds pursuant to subsection (2) in a given area, which list shall be filed with the law enforcement agencies and court clerks in the area.

(4) The provisions of [s. 903.045](#) applicable to bail bond agents shall apply to surety insurers and their licensed general lines agents who execute bail bonds pursuant to this section. History.--s. 2, ch. 26897, 1951; s. 40, ch. 70-339; s. 1, ch. 77-119; s. 2, ch. 85-48; s. 24, ch. 86-296; s. 2, ch. 88-309; s. 1489, ch. 97-102.

STATEMENT OF SURRENDER FORM

This form must be completed at the time of the surrender of a defendant by the bail bond agent with a copy provided to the defendant, pursuant to 648.4425, Florida Statutes. If a county has a separate surrender form, this form must be completed and attached to that form.



Defendant's full name: _____

Criminal court case number: _____

Reason for surrender: _____

Date of surrender of defendant:

Check one of the following:

Bail Bond Agent physically surrendered defendant, or

Defendant already in custody on other charges.

Will premium be returned to defendant? Yes No If no, explain: _____

Was a surrender fee charged? Yes No

If so, state the amount and reason for fee: _____

<u>Charge:</u>	<u>Date of Bond</u>	<u>Amt. of Bond</u>	<u>Power No.</u>
_____	/ /	\$	_____
_____	/ /	\$	_____
_____	/ /	\$	_____

I DO HEREBY CERTIFY THAT I AM A LICENSED BAIL BOND AGENT PURSUANT TO CHAPTER 648, FLORIDA STATUTES. I FURTHER CERTIFY THE SURRENDER OF THE ABOVE LISTED DEFENDANT IS FOR THE REASON STATED ABOVE. I UNDERSTAND THAT WHOEVER KNOWINGLY MAKES A FALSE STATEMENT IN WRITING WITH THE INTENT TO MISLEAD A PUBLIC SERVANT IN THE PERFORMANCE OF HIS OR HER OFFICIAL DUTIES IS GUILTY OF A MISDEMEANOR OF THE SECOND DEGREE, PURSUANT TO SECTION 837.06, FLORIDA STATUTES.

Bail Bond Agent signature _____

Bail Bond Agent name (Printed): _____

Bail Bond Agent license No. _____

Business Name: _____

Business Address: _____

City/State/Zip Code: _____

Receiving Officer's Signature (optional)

Original: Attached to surrender form (if applicable)

Copy: Defendant

Copy: Agent's file for defendant

DFS-H2-1542

Revised 10/02



ALIS12