

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 252
Committee Substitute Favorable 4/14/21
Committee Substitute #2 Favorable 4/14/21
Senate Judiciary Committee Substitute Adopted 6/14/22

Short Title: Modify Surety/Bail Bond/Bondsmen Provisions.

(Public)

Sponsors:

Referred to:

March 10, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY QUALIFICATIONS AND TESTING PROCEDURES FOR BAIL
3 BONDSMEN AND RUNNERS AND TO MODIFY VARIOUS PROVISIONS RELATED
4 TO BAIL BOND FORFEITURES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** G.S. 58-71-50(b) is amended by adding a new subdivision to read:

7 "(9) Be a legal resident or a documented citizen of the United States of America."

8 **SECTION 1.(b)** This section is effective when it becomes law and applies to
9 applications submitted on or after that date.

10 **SECTION 2.** G.S. 58-71-70 reads as rewritten:

11 "**§ 58-71-70. Examination; fees.**

12 Each applicant for a license as a professional bondsman, surety bondsman, or runner shall
13 appear in person and take an examination prepared by the Commissioner testing the applicant's
14 ability and qualifications. Each applicant is eligible for examination 30 days after the date the
15 application is received by the Commissioner. If an applicant is unable to complete the
16 examination requirement within 30 days after notification from the Commissioner of the
17 applicant's eligibility to take the examination, the applicant shall again be subject to the criminal
18 history record check prescribed by G.S. 58-71-50(a) so that current information is available for
19 review with the application. Each examination shall be held at a time and place as designated by
20 the Commissioner. Each applicant shall be given notice of the designated time and place no
21 sooner than 15 days before the examination. The Commissioner may contract with a person to
22 process applications for the examination and administer and grade the examination in the same
23 manner as for agent examinations under Article 33 of this Chapter.

24 The fee for each examination is twenty-five dollars (\$25.00) plus an amount that offsets the
25 cost of any contract for examination services. This examination fee is nonrefundable.

26 ~~An applicant who fails an examination may take a subsequent examination, but at least one~~
27 ~~year must intervene between examinations.~~

28 Any applicant who fails to pass the examination shall within 90 days be entitled to
29 reexamination upon the payment of an additional examination fee. If the applicant fails to pass
30 the reexamination, the applicant shall file a new application before the applicant can again be
31 examined. One year must intervene from the date of the reexamination before the applicant is
32 allowed to file a new application.

33 **SECTION 3.(a)** G.S. 15A-544.3 reads as rewritten:

34 "**§ 15A-544.3. Entry of forfeiture.**



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1 (a) If a defendant who was released under Part 1 of this Article upon execution of a bail
2 bond fails on any occasion to appear before the court as required, the court shall enter a forfeiture
3 for the amount of that bail bond in favor of the State against the defendant and against each surety
4 on the bail bond.

5 (b) The forfeiture shall contain the following information:

6 ...

7 (9) The following notice: "TO THE DEFENDANT AND EACH SURETY
8 NAMED ABOVE: The defendant named above has failed to appear as
9 required before the court in the case identified above. A forfeiture for the
10 amount of the bail bond shown above was entered in favor of the State against
11 the defendant and each surety named above on the date of forfeiture shown
12 above. This forfeiture will be set aside if, on or before the final judgment date
13 shown above, satisfactory evidence is presented to the court that one of the
14 following events has occurred: (i) the defendant's failure to appear has been
15 stricken by the court in which the defendant was required to appear and any
16 order for arrest that was issued for that failure to appear is recalled, (ii) all
17 charges for which the defendant was bonded to appear have been finally
18 disposed of by the court other than by the State's taking a voluntary dismissal
19 with leave, (iii) the defendant has been surrendered by a surety or bail agent
20 to a sheriff of this State as provided by law, (iv) the defendant has been served
21 with an Order for Arrest for the Failure to Appear on the criminal charge in
22 the case in question as evidenced by a copy of an official court record,
23 including an electronic record, (v) the defendant died before or within the
24 period between the forfeiture and the final judgment as demonstrated by the
25 presentation of a death certificate, (vi) the defendant was incarcerated in a unit
26 of the Division of Adult Correction and Juvenile Justice of the Department of
27 Public Safety and is serving a sentence or in a unit of the Federal Bureau of
28 Prisons located within the borders of the State at the time of the failure to
29 appear as evidenced by a copy of an official court record or a copy of a
30 document from the Division of Adult Correction and Juvenile Justice of the
31 Department of Public Safety or Federal Bureau of Prisons, ~~or~~ (vii) the
32 defendant was incarcerated in a local, state, or federal detention center, jail, or
33 prison located anywhere within the borders of the United States at the time of
34 the failure to appear, or between the failure to appear and the final judgment
35 date, and the district attorney for the county in which the charges are pending
36 was notified of the defendant's incarceration while the defendant was still
37 incarcerated and the defendant remains incarcerated for a period of 10 days
38 following the district attorney's receipt of notice, as evidenced by a copy of
39 the written notice served on the district attorney via hand delivery or certified
40 mail and written documentation of date upon which the defendant was
41 released from incarceration, if the defendant was released prior to the time the
42 motion to set aside was ~~filed.~~ filed, (viii) notice of forfeiture was not provided
43 pursuant to G.S. 15A-544.4(e), or (ix) the court refused to issue an order for
44 arrest for the defendant's failure to appear, as evidenced by a copy of an
45 official court record, including an electronic record. The forfeiture will not be
46 set aside for any other reason. If this forfeiture is not set aside on or before the
47 final judgment date shown above, and if no motion to set it aside is pending
48 on that date, the forfeiture will become a final judgment on that date. The final
49 judgment will be enforceable by execution against the defendant and any
50 accommodation bondsman and professional bondsman on the bond. The final
51 judgment will also be reported to the Department of Insurance. Further, no

1 surety will be allowed to execute any bail bond in the above county until the
2 final judgment is satisfied in full."

3 **SECTION 3.(b)** G.S. 15A-544.5 reads as rewritten:

4 "§ 15A-544.5. (Effective until January 1, 2023) Setting aside forfeiture.

5 ...

6 (b) Reasons for Set Aside. – Except as provided by subsection (f) of this section, a
7 forfeiture shall be set aside for any one of the following reasons, and none other:

8 ...

9 (8) Notice of the forfeiture was not provided pursuant to G.S. 15A-544.4(e).

10 (9) The court refused to issue an order for arrest for the defendant's failure to
11 appear, as evidenced by a copy of an official court record, including an
12 electronic record.

13 (c) Procedure When Failure to Appear Is Stricken. – If the court before which a
14 defendant's appearance was secured by a bail bond enters an order striking the defendant's failure
15 to appear and recalling any order for arrest issued for that failure to appear, that court ~~may~~shall
16 simultaneously enter an order setting aside any forfeiture of that bail bond. When an order setting
17 aside a forfeiture is entered, the defendant's further appearances shall continue to be secured by
18 that bail bond unless the court orders otherwise.

19"

20 **SECTION 3.(c)** This section becomes effective December 1, 2022, and applies to
21 forfeitures entered on or after that date.

22 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
23 law.