

HOUSE BILL 853

By Farmer

AN ACT to amend Tennessee Code Annotated, Section 40-11-302, relative to bail.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-11-302, is amended by adding the following new subsections:

() An individual sole proprietor professional bondsman, or the bondsman's agent, as an officer of the court, shall be permitted to answer court, surrender a defendant based upon one (1) or more of the grounds set forth in § 40-11-132, obtain an extension of time, or respond to a court's request for information without the necessity of obtaining legal counsel.

() Any documents relating to the assignment of collateral shall be delivered to the presiding judge of the judicial district where the professional bondsman is approved. The presiding judge shall enter an order designating which clerk shall maintain the collateral documents.

() Subject to the procedure set forth in this subsection, a surety may deliver to the court an investment certificate, including a certificate of deposit, in order to establish or increase the surety's capacity. So long as the procedure set forth is followed, a court shall not refuse to accept the investment certificate. When taking an investment certificate, including a certificate of deposit, the following procedure shall be followed:

(1) The surety shall purchase the investment certificate in the surety's name from a financial institution regulated by the state or federal government.

The investment certificate shall be insured by the federal deposit insurance corporation (FDIC);

(2) The surety shall then execute an assignment of the investment certificate to the clerk of the court with criminal jurisdiction using the following form:

ASSIGNMENT OF SECURITY INTEREST TO THE STATE OF TENNESSEE

ASSIGNOR, SECURITY AND FINANCIAL INSTITUTION:

Please print

Assignor's name and name of person executing this assignment	Social Security or FEN/EIN:
Title(s) of person executing this assignment (i.e. owner, partner, president, secretary, etc.):	
Assignor's mailing address (Number and Street or P.O. Box, City, State, ZIP Code):	
Name of Professional Bondsman in whose behalf the assignment is executed (name as it is used on approved list):	

Description of Security:	ID Number of CD or other security:
Name of account or payee of Security (as it reads on the CD or other security):	First maturity date, if any:
Dollar Amount of Security (in words):	Dollar Amount of Security (in numbers):
Name of Financial Institution:	
Mailing address of Financial Institution (Number and Street or P.O. Box, City, State, ZIP Code) & telephone number:	

In order to provide security to the State of Tennessee (including all future liability), the Assignor specified above, for and on the behalf of the professional bondsman named above, assigns and sets over irrevocably to the State of Tennessee a security interest in and to the Security described above.

Assignor agrees that this assignment gives to the State of Tennessee separately the exclusive right to redeem, collect and withdraw any part of or the full amount of the Security to be applied as a payment to satisfy a final forfeit judgment after the judgment becomes final against the Assignor and/or the professional bondsman named above in accordance with Tenn. Code Ann. §40-11-101, *et seq.* The right of the State of Tennessee to apply the Security shall not be affected by a subsequent change in the trade name or business location of the person or entity on whose behalf this assignment is executed.

Assignor understands and agrees that by this assignment, all use of and control over the disposition of the Security is relinquished. The Security is to be held by the financial institution identified above for the sole use and subject to the exclusive control of the State of Tennessee. Interest on the Security shall be paid to the Assignor.

This is notification by the assessor to the financial institution of the terms of this assignment

Assignor's Signature:	Assignor's name in print:	Date:
Sworn to or affirmed before me on this _____ day of _____ 20____		Notary stamp or seal:
Signature of Notary Public in and for the State of Tennessee:		

My Commission Expires:

(3) At the same time the surety shall also deliver to the clerk of the court with criminal jurisdiction an acknowledgment signed by the institution issuing the investment certificate using the following form:

CONTROL AGREEMENT WITH FINANCIAL INSTITUTION AND NOTICE OF EXCLUSIVE CONTROL:

The Financial Institution acknowledges the assignment of the Security for payment of final judgments of forfeiture to the State of Tennessee. We certify that we have recorded the assignment and have retained a copy. We certify that we do not have, nor do we have knowledge of, anyone else having any lien, encumbrance, right, hold, claim to or obligation of the Security. We accept the Security with knowledge that it has been irrevocably posted as collateral, and we agree to act as the sole agent for the purpose of holding the Security for the State of Tennessee. We agree to comply with the instructions of the Court (on behalf of the State of Tennessee) directing disposition of the Security without further notice to or consent by the Assignor. We further agree not to exercise any set off rights we may have with respect to the Security or to otherwise impede, hinder, delay, prevent, obstruct or interfere with the Court's right to direct payment of, redeem, or collect any part (or the full amount) of the Security promptly.

Name of Financial Institution and Officer Executing this Document (Type or print):	Officer's Title:
Officer's Signature:	Date:
Sworn to or affirmed before me on this _____ day of _____ 20____	Notary stamp or seal:

Signature of Notary Public in and for the State of Tennessee:	Mv Commission Expires:
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SECTION 2. If there is no loss of interest or the imposition of a financial penalty, existing investment certificates shall be reissued to comply with the procedure set forth in this act. In any other case, the investment certificate shall be brought into compliance upon maturity.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.