

House Bill 662

By: Representatives Lopez of the 86th, Efstration of the 104th, McLaurin of the 51st, and Lim of the 99th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds
2 and recognizances, so as to provide for an increase in the time allotted to try a criminal case
3 in judicial emergencies; to clarify bond forfeiture conditions; to provide for related matters;
4 to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds and
8 recognizances, is amended by revising subsection (e) of Code Section 17-6-31, relating to
9 surrender of principal by surety, forfeiture of bond, and death of principal, as follows:

10 "(e) If the prosecuting attorney does not try the charges against a defendant within a period
11 of ~~two~~ four years in the case of felonies and ~~one-year~~ two years in the case of
12 misdemeanors after the date of posting bond, then judgment rendered after such period may
13 not be enforced against the surety on the bond and the surety shall thereafter be relieved
14 of liability on the bond. This subsection shall not apply where the prosecuting attorney's
15 failure to try the charges is due to the fault of the principal."

16 **SECTION 2.**

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

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

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

30 (2) Provided the bond amount has been paid within 120 days after the entry of judgment
31 and the delay has not prevented prosecution of the principal, ~~Should~~ should the surety,
32 within two years of the principal's failure to appear, locate the principal in the custody of
33 the sheriff in the jurisdiction where the bond was made or in another jurisdiction causing
34 the return of the principal to the jurisdiction where the bond was made, apprehend,
35 surrender, or produce the principal, if the apprehension or surrender of the principal is
36 substantially procured or caused by the surety, or if the location of the principal by the
37 surety causes the adjudication of the principal in the jurisdiction in which the bond was
38 made, the surety shall be entitled to a refund of 50 percent of the bond amount. The
39 application for 50 percent remission shall be filed no later than 30 days following the
40 expiration of the two-year period following the date of judgment; or

41 ~~(2)~~(3) Remission shall be granted upon condition of the payment of court costs and of
42 the expenses of returning the principal to the jurisdiction by the surety.

43 (e)(1) If, within 120 days from payment entry of the judgment, the surety surrenders the
44 principal to the sheriff or responsible law enforcement officer, or said surrender has been
45 denied by the sheriff or responsible law enforcement officer, or the surety locates the
46 principal in custody in another jurisdiction, the surety shall only be required to pay costs
47 and 5 percent of the face amount of the bond, which amount includes all surcharges. If
48 it is shown to the satisfaction of the court, by the presentation of competent evidence
49 from the sheriff or the holding institution, that said surrender has been made or denied or
50 that the principal is in custody in another jurisdiction or that said surrender has been made
51 and that 5 percent of the face amount of the bond and all costs have been tendered to the
52 sheriff, the court shall direct that the judgment be marked satisfied and that the writ of
53 fieri facias be canceled.

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

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

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

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

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

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

69

SECTION 3.

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