

Regular Session, 2010

HOUSE BILL NO. 624

BY REPRESENTATIVE SMILEY

BONDS/BAIL: Provides with respect to bail bonds and judgments of bond forfeiture

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 322(A) and (B) and R.S.  
3 15:85(1), (2), (4), and (7), relative to bail; to require the inclusion of additional  
4 information on bail bonds and judgments of bond forfeiture; to provide that a bail  
5 bond or judgment of bond forfeiture shall not be set aside for the invalidity or failure  
6 to include such information; to provide for the liability of a bail agent representing  
7 a surety as an insurance agent; to provide for the reliance on this additional  
8 information with respect to judgments of bond forfeiture; to provide that a judgment  
9 of bond forfeiture containing inaccurate information shall be deemed ineffective as  
10 a judicial mortgage to third parties who rely upon the information; and to provide for  
11 related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Code of Criminal Procedure Article 322(A) and (B) are hereby amended  
14 and reenacted to read as follows:

15 Art. 322. Declaration of residence and last four digits of the social security number  
16 by defendant and surety; waiver of notice

17 A. The defendant when signing a bail bond shall write under his signature  
18 the address at which he resides and the last four digits of his social security number.

19 The address shall be conclusively presumed to continue for all proceedings on the  
20 bond, until he files in the proceeding in which the bond was given a written

1 declaration changing the address. The defendant may, by affidavit filed of record in  
 2 the proceeding in which the bond was given, appoint his counsel as his agent for  
 3 service of notice to appear. The appointment shall be conclusively presumed to  
 4 continue until the defendant files of record an affidavit revoking or changing the  
 5 appointment. A bail bond shall not be set aside because of the invalidity of the  
 6 information required by this Article or for the failure to include the information  
 7 required by the provisions of this Article.

8 B. A personal surety signing a bail bond shall write under his signature the  
 9 address at which he resides and the last four digits of his social security number. The  
 10 address shall be conclusively presumed to continue for all proceedings on the bond,  
 11 until he files in the proceeding in which the bond was given a written declaration  
 12 changing the address. A bail bond shall not be set aside because of the invalidity of  
 13 the information required by the provisions of this Article or for the failure to include  
 14 the information required by the provisions of this Article.

15 \* \* \*

16 Section 2. R.S. 15:85(1), (2), (4), and (7) are hereby amended and reenacted to read  
 17 as follows:

18 §85. Forfeiture; procedure; notice; enforcement; and collection

19 All bonds taken to secure the appearance of any person before any court  
 20 executed in the state of Louisiana shall be forfeited and collected as follows:

21 (1) Failure to appear and answer. If at the time fixed for appearance the  
 22 defendant fails to appear and answer when called, the judge, on motion of the  
 23 prosecuting attorney, upon hearing of proper evidence including: the bail contract;  
 24 the power of attorney if any; and the notice to the defendant and the surety as  
 25 required by Article 344 of the Code of Criminal Procedure, shall immediately and  
 26 forthwith issue a warrant for the arrest of the person failing to appear and order a  
 27 judgment decreeing the forfeiture of the bond and against the defendant and his  
 28 sureties in solido for the full amount of the bond. A bail agent who represents the  
 29 surety as an insurance agent shall not be solidarily liable for the forfeiture of a bond



1 thousand dollars, or until ten days after the expiration of nine months for bonds  
2 which have a face value of fifty thousand dollars or more. The timely filing of a  
3 suspensive appeal shall suspend the enforcement or collection of the judgment of the  
4 bond forfeiture. In addition, the court may provide by court rule for the filing of an  
5 offset claim against the principal with the secretary of the Department of Revenue,  
6 in accordance with R.S. 47:299.1 through 299.20. If after six months and ten days  
7 from the mailing of proper notice of the signing of the judgment for bonds which  
8 have a face value under fifty thousand dollars, or if after nine months and ten days  
9 for bonds which have a face value of fifty thousand dollars or more, a judgment of  
10 bond forfeiture against a commercial surety company has not been suspensively  
11 appealed nor satisfied or proceedings challenging the bond forfeiture have not been  
12 timely filed, the prosecuting attorney may either file a rule to show cause with the  
13 commissioner of insurance in accordance with R.S. 22:1441 or collect the judgment  
14 in the same manner as a civil judgment. A judgment of bond forfeiture shall not be  
15 set aside because of the invalidity of the information required by the provisions of  
16 this Section or for the failure to include the information required by the provisions  
17 of this Section.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Smiley

HB No. 624

**Abstract:** Provides for additional information to be required on bail bonds and judgments of bond forfeiture.

Present law provides for types of bail, bail bonds, and judgments of bond forfeiture.

Present law requires that the defendant and personal sureties sign the bail bond.

Proposed law retains the provisions of present law and requires the defendant and personal sureties to provide the last four digits of their social security numbers on the bail bond and the judgment of bond forfeiture in addition to the requirements of present law.

Proposed law provides that a bail bond or judgment of bond forfeiture shall not be set aside either for the inaccuracy of the information included or for the failure to include the information required by proposed law.

Present law provides for the recording of a judgment of bond forfeiture and provides for its use by third parties.

Proposed law provides that prior to recordation, the district attorney shall verify the inclusion of information on the judgment, namely, the address and the last four digits of the social security number for the defendant and personal sureties. Proposed law provides that third parties may rely upon the accuracy of this information for purposes of distinguishing the identity of the defendant and his sureties.

Proposed law further provides that any judgment of bond forfeiture containing inaccurate information shall be deemed ineffective as a judicial mortgage to third parties who rely upon that information.

Proposed law provides that a bail agent who represents the surety as an insurance agent shall not be solidarily liable for the forfeiture of a bond against the defendant and his sureties. In the event that a bail agent who represents the surety as an insurance agent is held solidarily liable, then that bail agent may request to be released from the judgment, and the release of the bail agent shall have no effect on the judgment decreeing the forfeiture of the bond against the defendant and his sureties.

(Amends C.Cr.P. Art. 322(A) and (B) and R.S. 15:85(1), (2), (4), and (7))