

Regular Session, 2010  
HOUSE BILL NO. 624  
BY REPRESENTATIVE SMILEY

# ACT No. 710

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  
21 declaration changing the address. The defendant may, by affidavit filed of record in  
22 the proceeding in which the bond was given, appoint his counsel as his agent for  
23 service of notice to appear. The appointment shall be conclusively presumed to  
24 continue until the defendant files of record an affidavit revoking or changing the

1 appointment. A bail bond shall not be set aside because of the invalidity of the  
 2 information required by this Article or for the failure to include the information  
 3 required by the provisions of this Article.

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

11 \* \* \*

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

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

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

17 (1) Failure to appear and answer. If at the time fixed for appearance the  
 18 defendant fails to appear and answer when called, the judge, on motion of the  
 19 prosecuting attorney, upon hearing of proper evidence including: the bail contract;  
 20 the power of attorney if any; and the notice to the defendant and the surety as  
 21 required by Article 344 of the Code of Criminal Procedure, shall immediately and  
 22 forthwith issue a warrant for the arrest of the person failing to appear and order a  
 23 judgment decreeing the forfeiture of the bond and against the defendant and his  
 24 sureties in solido for the full amount of the bond. A bail agent who represents the  
 25 surety as an insurance agent shall not be solidarily liable for the forfeiture of a bond  
 26 against the defendant and his sureties. In the event that a bail agent who represents  
 27 the surety as an insurance agent is held solidarily liable, then that bail agent may  
 28 request to be released from the judgment, and the release of the bail agent shall have  
 29 no effect on the judgment decreeing the forfeiture of the bond against the defendant  
 30 and his sureties.

1                   (2) Signing of the judgment of bond forfeiture. Following the defendant's  
 2 failure to appear, the court shall sign a written judgment of bond forfeiture. The  
 3 judgment shall include the address and the last four digits of the social security  
 4 number for the defendant and his sureties. A judgment of bond forfeiture shall not  
 5 be set aside because of the invalidity of the information required by the provisions  
 6 of this Section or for the failure to include the information required by this Section.

7   \*           \*           \*

8                   (4) Recordation of judgment. After mailing notice of the signing of the  
 9 judgment of bond forfeiture, the district attorney shall cause the judgment to be  
 10 recorded in every parish in which he thinks the recordation is proper. Every such  
 11 recordation shall be without cost and shall operate as a judicial mortgage against the  
 12 defendant and all his sureties. Prior to recordation, the district attorney shall verify  
 13 the inclusion of information on the judgment, namely, the address and the last four  
 14 digits of the social security number for the defendant and his sureties. Third parties  
 15 may rely upon the accuracy of the information required by the provisions of this  
 16 Section for purposes of distinguishing the identity of the defendant and his sureties.  
 17 Any judgment of bond forfeiture containing inaccurate information required by the  
 18 provisions of this Section shall be deemed ineffective as a judicial mortgage to third  
 19 parties who rely upon that information.

20   \*           \*           \*

21                   (7) Enforcement and collection of judgment. No judgment of bond forfeiture  
 22 rendered on or after August 15, 1997, shall be enforced or collected until ten days  
 23 after the expiration of six months after the mailing of proper notice of the signing of  
 24 the judgment of bond forfeiture for bonds which have a face value under fifty  
 25 thousand dollars, or until ten days after the expiration of nine months for bonds  
 26 which have a face value of fifty thousand dollars or more. The timely filing of a  
 27 suspensive appeal shall suspend the enforcement or collection of the judgment of the  
 28 bond forfeiture. In addition, the court may provide by court rule for the filing of an  
 29 offset claim against the principal with the secretary of the Department of Revenue,  
 30 in accordance with R.S. 47:299.1 through 299.20. If after six months and ten days

1 from the mailing of proper notice of the signing of the judgment for bonds which  
 2 have a face value under fifty thousand dollars, or if after nine months and ten days  
 3 for bonds which have a face value of fifty thousand dollars or more, a judgment of  
 4 bond forfeiture against a commercial surety company has not been suspensively  
 5 appealed nor satisfied or proceedings challenging the bond forfeiture have not been  
 6 timely filed, the prosecuting attorney may either file a rule to show cause with the  
 7 commissioner of insurance in accordance with R.S. 22:1441 or collect the judgment  
 8 in the same manner as a civil judgment. A judgment of bond forfeiture shall not be  
 9 set aside because of the invalidity of the information required by the provisions of  
 10 this Section or for the failure to include the information required by the provisions  
 11 of this Section.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_