

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

H

1

HOUSE BILL 762

Short Title: Amend Certain Bail Bond Procedures. (Public)

Sponsors: Representatives Hardister, Faircloth, Turner, and Wray (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee A.

April 11, 2013

A BILL TO BE ENTITLED
AN ACT TO AMEND VARIOUS PROCEDURAL REQUIREMENTS REGARDING BAIL BONDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-531(4) reads as rewritten:

(4) "Bail bond" means an undertaking by the defendant to appear in court as required upon penalty of forfeiting bail to the State in a stated amount. Bail bonds include an unsecured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage under G.S. 58-74-5, and an appearance bond secured by at least one solvent surety. A bail bond for which the surety is a bail agent acting on behalf of an insurance company is signed by any surety, as defined in G.S. 15A-531(8)a. and b., is considered the same as a cash deposit for all purposes in this Article. A bail bond signed by a professional bondsman who is not a bail agent is not considered the same as a cash deposit under this Article. Cash bonds set in child support contempt proceedings shall not be satisfied in any manner other than the deposit of cash."

SECTION 2. G.S. 15A-540(b) reads as rewritten:

(b) Surrender After Breach of Condition. - After there has been a breach of the conditions of a bail bond, a surety may surrender the defendant as provided in this subsection. A surety may arrest the defendant for the purpose of returning the defendant to the sheriff. After arresting a defendant, the surety may surrender the defendant to the sheriff of the county in which the defendant is bonded to appear or to the sheriff where the defendant was bonded. Alternatively, a surety may surrender a defendant who is already in the custody of any sheriff by appearing in person and informing the sheriff that the surety wishes to surrender the defendant. Before surrendering a defendant to a sheriff, the surety must provide the sheriff with a certified copy of the bail bond, bond, forfeiture, or release order. Upon surrender of the defendant, the sheriff shall provide a receipt to the surety."

SECTION 3. G.S. 15A-544.5(d)(2) reads as rewritten:

(d) Motion Procedure. - If a forfeiture is not set aside under subsection (c) of this section, the only procedure for setting it aside is as follows:

- (2) The motion shall be filed in the office of the clerk of superior court of the county in which the forfeiture was entered. The moving party shall, under G.S. 1A-1, Rule 5, serve a copy of the motion on the district attorney for that



1 county and on the attorney for the county board of education. ~~The clerk of~~  
2 ~~superior court shall, by personal delivery or by mail, provide a copy of the~~  
3 ~~motion to the district attorney for the county and to the attorney for the~~  
4 ~~county board of education.~~

5 ...."

6 **SECTION 4.** G.S. 15A-544.5(d)(4) reads as rewritten:

7 "(4) If neither the district attorney nor the attorney for the board of education has  
8 filed a written objection to the motion by the twentieth day after a copy of  
9 the motion is served by the ~~clerk of superior court pursuant to Rule 4~~ moving  
10 party pursuant to Rule 5 of the Rules of Civil Procedure, the clerk shall enter  
11 an order setting aside the forfeiture, regardless of the basis for relief asserted  
12 in the motion, the evidence attached, or the absence of either."

13 **SECTION 5.** G.S. 15A-544.8(c)(2) reads as rewritten:

14 "(c) Procedure. – The procedure for obtaining relief from a final judgment under this  
15 section is as follows:

16 ...

17 (2) The motion shall be filed in the office of the clerk of superior court of the  
18 county in which the final judgment was, entered. The moving party shall,  
19 under G.S. 1A-1, Rule 5, serve a copy of the motion on the district attorney  
20 for that county and on the attorney for the county board of education. ~~The~~  
21 ~~clerk of superior court shall, by personal delivery or by mail, provide a copy~~  
22 ~~of the motion to the district attorney for the county and to the attorney for~~  
23 ~~the county board of education.~~

24 ...."

25 **SECTION 6.** This act becomes effective December 1, 2013.