



House of Representatives

General Assembly

File No. 737

January Session, 2013

Substitute House Bill No. 6689

House of Representatives, May 6, 2013

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING BAIL BONDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-660c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) A surety bail bond agent may enter into a premium financing
4 arrangement with a principal or any indemnitor in which such agent
5 extends credit to such principal or indemnitor.

6 (b) If a surety bail bond agent enters into a premium financing
7 arrangement, such agent shall require (1) the principal on the bail bond
8 or any indemnitor to make a minimum down payment of [thirty-five]
9 thirty per cent of the premium due, at the premium rate approved by
10 the commissioner pursuant to chapter 701, and (2) the principal and
11 any indemnitor to execute a promissory note for the balance of the
12 premium due. Such promissory note shall provide that such balance
13 shall be paid not later than [fifteen] eighteen months after the date of
14 the execution of the bail bond. If such balance has not been paid in full

15 to the surety bail bond agent by the due date or a payment due under
16 such arrangement is more than sixty days in arrears, such agent shall
17 file a civil action seeking appropriate relief with the court not later
18 than seventy-five days after such due date. The surety bail bond agent
19 shall make a diligent effort to obtain judgment after filing such
20 complaint on such promissory note unless good cause is shown for
21 failure to obtain judgment, including, but not limited to, the filing for
22 bankruptcy by the principal or the indemnitor or failure to serve
23 process despite good faith efforts.

24 Sec. 2. Section 54-65 of the general statutes is repealed and the
25 following is substituted in lieu thereof (*Effective October 1, 2013*):

26 (a) Any surety in a recognizance in criminal proceedings, who
27 believes that [his] such surety's principal intends to abscond, shall
28 apply to a judge of the Superior Court, produce [his] such surety's bail
29 bond or evidence of [his] being a surety, and verify the reason of [his]
30 such surety's application by oath or otherwise. Thereupon, the judge
31 shall immediately grant a mittimus, directed to a proper officer or
32 indifferent person, commanding [him] such officer or person
33 immediately to arrest the principal and commit [him] the principal to a
34 community correctional center. The Community Correctional Center
35 Administrator shall receive and retain the principal [and retain him] in
36 a community correctional center until discharged by due order of law.
37 The surrender of the principal shall be a full discharge of the surety
38 upon [his] such surety's bond or recognizance.

39 (b) If the principal of a surety in a recognizance in criminal
40 proceedings absconds, such surety may apply in writing, prior to six
41 months after the date the bond is ordered forfeited, to a judge of the
42 Superior Court to be released from such bond. The judge may release
43 such surety from such bond for good cause shown.

44 Sec. 3. Section 54-65a of the general statutes is repealed and the
45 following is substituted in lieu thereof (*Effective October 1, 2013*):

46 (a) (1) Whenever an arrested person is released upon the execution

47 of a bond with surety in an amount of five hundred dollars or more
48 and such bond is ordered forfeited because the principal failed to
49 appear in court as conditioned in such bond, the court shall, at the time
50 of ordering the bond forfeited: [(1)] (A) Issue a rearrest warrant or a
51 capias directing a proper officer to take the defendant into custody,
52 [(2)] (B) provide written notice to the surety on the bond that the
53 principal has failed to appear in court as conditioned in such bond,
54 except that if the surety on the bond is an insurer, as defined in section
55 38a-660, the court shall provide such notice to such insurer and not to
56 the surety bail bond agent, as defined in section 38a-660, and [(3)] (C)
57 order a stay of execution upon the forfeiture for six months. The court
58 may, in its discretion and for good cause, extend such stay of
59 execution. A stay of execution shall not prevent the issuance of a
60 rearrest warrant or a capias.

61 (2) When the principal whose bond has been forfeited is returned to
62 custody pursuant to the rearrest warrant or a capias within six months
63 [of] after the date such bond was ordered forfeited or, if a stay of
64 execution was extended, within the time period inclusive of such
65 extension of the date such bond was ordered forfeited, the bond shall
66 be automatically terminated and the surety released and the court shall
67 order new conditions of release for the defendant in accordance with
68 section 54-64a.

69 (3) When the principal whose bond has been forfeited returns to
70 court voluntarily within five business days [of] after the date such
71 bond was ordered forfeited, the court may, in its discretion, and after
72 finding that the defendant's failure to appear was not wilful, vacate the
73 forfeiture order and reinstate the bond. [Such stay of execution shall
74 not prevent the issuance of a rearrest warrant or a capias.]

75 (4) When the accused person whose bond has been forfeited returns
76 to court voluntarily more than five business days and less than six
77 months after the date such bond was ordered forfeited, the bond shall
78 be automatically terminated and the surety released and the court shall
79 order new conditions of release for the defendant in accordance with

80 section 54-64a.

81 (b) Whenever an arrested person, whose bond has been forfeited, is
82 returned to the jurisdiction of the court within one year [of] after the
83 date such bond was ordered forfeited, the surety on such bond shall be
84 entitled to a rebate of that portion of the forfeited amount as may be
85 fixed by the court or as may be established by a schedule adopted by
86 rule of the judges of the court.

87 Sec. 4. Section 54-66 of the general statutes is repealed and the
88 following is substituted in lieu thereof (*Effective October 1, 2013*):

89 (a) (1) In any criminal case in which a bond is allowable or required
90 and the amount thereof has been determined, the accused person, or
91 any person [in] on the accused person's behalf, [(1)] (A) may deposit,
92 with the clerk of the court having jurisdiction of the offense with which
93 the accused stands charged or any assistant clerk of such court who is
94 bonded in the same manner as the clerk or any person or officer
95 authorized to accept bail, a sum of money equal to the amount called
96 for by such bond, or [(2)] (B) may pledge real property, the equity of
97 which is equal to the amount called for by such bond, provided the
98 person pledging such property is the owner of such property, and such
99 accused person shall thereupon be admitted to bail.

100 (2) When cash bail is offered, such bond shall be executed and the
101 money shall be received in lieu of a surety or sureties upon such bond.
102 Such cash bail shall be retained by the clerk of such court until a final
103 order of the court disposing of the same is passed; provided, if such
104 bond is forfeited, the clerk of such court shall pay the money to the
105 payee named therein, according to the terms and conditions of the
106 bond. When cash bail in excess of ten thousand dollars is received for a
107 person accused of a felony, where the underlying facts and
108 circumstances of the felony involve the use, attempted use or
109 threatened use of physical force against another person, the clerk of
110 such court shall prepare a report that contains (A) the name, address
111 and taxpayer identification number of the accused person, (B) the
112 name, address and taxpayer identification number of each person

113 offering the cash bail, other than a person licensed as a professional
114 bondsman under chapter 533 or a surety bail bond agent under
115 chapter 700f, (C) the amount of cash received, and (D) the date the cash
116 was received. Not later than fifteen days after receipt of such cash bail,
117 the clerk of such court shall file the report with the Department of
118 Revenue Services and mail a copy of the report to the state's attorney
119 for the judicial district in which the court is located and to each person
120 offering the cash bail.

121 [(b)] (3) When real property is pledged, the pledge shall constitute a
122 lien on the real property upon the filing of a notice of lien in the office
123 of the town clerk of the town in which the real property is located. The
124 lien shall be in an amount equal to the bond set by the court. The
125 notice of lien shall be on a form prescribed by the Office of the Chief
126 Court Administrator. Upon order of forfeiture of the underlying bond,
127 the state's attorney for the judicial district in which the forfeiture is
128 ordered shall refer the matter to the Attorney General and the
129 Attorney General may, on behalf of the state, foreclose such lien in the
130 same manner as a mortgage. The lien created by this subsection shall
131 expire six years after the forfeiture is ordered unless the Attorney
132 General commences an action to foreclose it within that period of time
133 and records a notice of lis pendens in evidence thereof on the land
134 records of the town in which the real property is located. If the bond
135 has not been ordered forfeited, the clerk of the court shall authorize the
136 recording of a release of such lien upon final disposition of the
137 criminal matter or upon order of the court. The release shall be on a
138 form prescribed by the Office of the Chief Court Administrator.

139 [(c)] (b) (1) Whenever an accused person is released upon the
140 deposit by a person on behalf of the accused person of a sum of money
141 equal to the amount called for by such bond or upon the pledge by a
142 person on behalf of the accused person of real property, the equity of
143 which is equal to the amount called for by such bond, and such bond is
144 ordered forfeited because the accused person failed to appear in court
145 as conditioned in such bond, the court shall, at the time of ordering the
146 bond forfeited: [(1)] (A) Issue a rearrest warrant or a capias directing a

147 proper officer to take the accused person into custody, [(2)] (B) provide
148 written notice to the person who offered cash bail or pledged real
149 property on behalf of the accused person that the accused person has
150 failed to appear in court as conditioned in such bond, and [(3)] (C)
151 order a stay of execution upon the forfeiture for six months. The court
152 may, in its discretion and for good cause, extend such stay of
153 execution. A stay of execution shall not prevent the issuance of a
154 rearrest warrant or a capias.

155 (2) When the accused person whose bond has been forfeited is
156 returned to custody pursuant to the rearrest warrant or a capias within
157 six months of the date such bond was ordered forfeited or, if a stay of
158 execution was extended, within the time period inclusive of such
159 extension of the date such bond was ordered forfeited, the bond shall
160 be automatically terminated and the person who offered cash bail or
161 pledged real property on behalf of the accused person shall be released
162 from such obligation and the court shall order new conditions of
163 release for the accused person in accordance with section 54-64a.

164 (3) When the accused person whose bond has been forfeited returns
165 to court voluntarily within five business days of the date such bond
166 was ordered forfeited, the court may, in its discretion, and after finding
167 that the accused person's failure to appear was not wilful, vacate the
168 forfeiture order and reinstate the bond. [Such stay of execution shall
169 not prevent the issuance of a rearrest warrant or a capias.]

170 Sec. 5. Section 54-65c of the general statutes is repealed and the
171 following is substituted in lieu thereof (*Effective October 1, 2013*):

172 A court shall vacate an order forfeiting a bail bond and release the
173 professional bondsman, as defined in section 29-144, or the surety bail
174 bond agent and the insurer, as both terms are defined in section 38a-
175 660, if (1) the principal on the bail bond (A) is detained or incarcerated
176 (i) in another state, territory or country, or (ii) by a federal agency, or
177 (B) has been removed by United States Immigration and Customs
178 Enforcement, and (2) the professional bondsman, the surety bail bond
179 agent or the insurer provides satisfactory proof of such detention, [or]

180 incarceration or removal to the court and the state's attorney
 181 prosecuting the case, and (3) the state's attorney prosecuting the case
 182 declines to seek extradition of the principal.

183 Sec. 6. Section 54-66a of the general statutes is repealed and the
 184 following is substituted in lieu thereof (*Effective October 1, 2013*):

185 Any bail bond posted in any criminal proceeding in this state shall
 186 be automatically terminated and released whenever the defendant: (1)
 187 Is granted accelerated rehabilitation pursuant to section 54-56e; (2) is
 188 granted admission to the pretrial alcohol education program pursuant
 189 to section 54-56g; (3) is granted admission to the pretrial family
 190 violence education program pursuant to section 46b-38c; (4) is granted
 191 admission to the community service labor program pursuant to section
 192 53a-39c; (5) is granted admission to the pretrial drug education
 193 program pursuant to section 54-56i; (6) has the complaint or
 194 information filed against such defendant dismissed; (7) is acquitted; (8)
 195 is sentenced by the court and such sentence commences; (9) is granted
 196 admission to the pretrial school violence prevention program pursuant
 197 to section 54-56j; (10) is charged with a violation of section 29-33 and
 198 prosecution has been suspended pursuant to subsection (h) of section
 199 29-33; or (11) is granted admission to the supervised diversionary
 200 program for persons with psychiatric disabilities pursuant to section
 201 54-56l.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2013</i>	38a-660c
Sec. 2	<i>October 1, 2013</i>	54-65
Sec. 3	<i>October 1, 2013</i>	54-65a
Sec. 4	<i>October 1, 2013</i>	54-66
Sec. 5	<i>October 1, 2013</i>	54-65c
Sec. 6	<i>October 1, 2013</i>	54-66a

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes various changes to rules concerning bail bonds and does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 6689

AN ACT CONCERNING BAIL BONDS.

SUMMARY:

This bill makes a number of changes relating to bail bonds, including:

1. reducing the minimum down payment and extending the payment period for bond premium financing agreements;
2. allowing a surety, under certain circumstances, to apply to the court to be released from a bond after a principal absconds;
3. allowing a court to extend the required six-month stay of execution on a bond forfeiture order for good cause;
4. automatically terminating a bond and releasing a surety when an accused voluntarily returns between five business days and six months after a bond forfeiture order;
5. requiring the court to vacate a bond and release a professional bondsman or surety bail bond agent and insurer upon satisfactory proof that the accused is held by a federal agency or is removed by U.S. Immigration and Customs Enforcement (ICE), if the prosecutor does not seek extradition; and
6. specifying that a bond that is automatically terminated when a defendant is sentenced by a court terminates when the sentence begins.

EFFECTIVE DATE: October 1, 2013

PREMIUM FINANCING AGREEMENTS

The law allows a surety bail bond agent to extend credit to a defendant or indemnitor for a bond in a criminal case under a premium financing agreement. The bill (1) reduces the minimum down payment required from 35% to 30% of the premium due and (2) extends from 15 to 18 months the time to pay the remaining balance under the promissory note.

ABSCONDING PRINCIPAL

The law requires a surety to apply to the Superior Court when he or she believes the principal on the bond will abscond, and the court must issue an order to take the person into custody. The bill allows the surety to apply to the court in writing to be released from a bond after a principal absconds and within six months of a bond forfeiture order. The bill allows a judge to release a surety for good cause.

EXTENDING STAY OF FORFEITURE ORDER

When someone deposits cash or pledges real property equal to the amount of bond or a person posts a surety bond of \$500 or more, the law requires the court to (1) order the bond forfeited if the accused does not appear in court and (2) issue a rearrest warrant. Currently, the court stays execution of the forfeiture for six months and, if the person is returned to custody during that period, the bond is automatically terminated, a person who offered cash bail or pledged real property on behalf of the accused is released, and the court sets the accused's new conditions of release.

The bill allows the court to extend the stay of execution for good cause and automatically terminates the bond if the person is returned during this extended period.

VOLUNTARY RETURN BY THE ACCUSED

By law, if an accused person voluntarily returns to court within five days after an order forfeiting a surety bond of \$500 or more, the court can vacate the forfeiture order and reinstate the bond if the failure to appear was not willful.

If the person returns voluntarily more than five business days but

less than six months after the forfeiture order, the bill requires the court to (1) automatically terminate the bond, (2) release the surety, and (3) order the person's new conditions of release.

ACCUSED HELD BY FEDERAL AGENCY OR REMOVED BY ICE

By law, the court must vacate a bond forfeiture order and release a professional bondsman or surety bail bond agent and insurer who posted a bond for the accused when (1) the accused is held in another state, territory, or country; (2) the bondsman, agent, or insurer provides proof of the accused's detention; and (3) the state's attorney prosecuting the case does not seek to extradite the accused. The bill also requires the court to vacate a bond forfeiture order and release these individuals if the accused is held by a federal agency or is removed by ICE. The bill specifies that the bondsman, agent, or insurer must provide satisfactory proof that one of these circumstances exists.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/19/2013)