

**BAIL BOND ACT AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Dennis E. Stowell**

House Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill modifies provisions regarding bail bonds and notice of bond forfeiture.

**Highlighted Provisions:**

This bill:

► provides that when the prosecutor notifies the bail bond company by mail of a judgment of bond forfeiture, the notice must be by certified mail, return receipt requested; and

► requires notice by certified mail, return receipt requested, to notify a surety of a motion to forfeit the bail and to notify the surety of a judgment of forfeiture of bail.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**31A-35-504**, as last amended by Laws of Utah 2006, Chapter 332

**77-20b-104**, as last amended by Laws of Utah 2006, Chapter 332

---

---

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **31A-35-504** is amended to read:



28           **31A-35-504. Failure to pay bail bond forfeiture -- Grounds for suspension and**  
29 **revocation of bail bond surety license.**

30           (1) As used in this section:

31           (a) "Company" means a bail bond surety company.

32           (b) "Judgment" means a judgment of bond forfeiture issued under Section 77-20b-104.

33           (2) (a) (i) A company shall pay a judgment not later than 15 days following service of  
34 notice upon the company from a prosecutor of the entry of the judgment.

35           (ii) A company may pay a bond forfeiture to the court prior to judgment.

36           (b) A prosecutor who does not receive proof of or notice of payment of the judgment  
37 within 15 days after the service of notice to the company of a judgment shall notify the  
38 commissioner of the failure to pay the judgment.

39           (c) If notice of entry of judgment is served upon the company by mail, the notice shall  
40 be sent by certified mail, return receipt requested, and three additional days are added to the 15  
41 days provided in Subsections (2)(a), (2)(b), and (2)(d).

42           (d) A prosecutor may not proceed under Subsection (2)(b) if a company, within 15  
43 days after service of notice of the entry of judgment is served:

44           (i) files a motion to set aside the judgment or files an application for an extraordinary  
45 writ; and

46           (ii) provides proof that the surety has posted the judgment amount with the court in the  
47 form of cash, a cashier's check, or certified funds.

48           (e) As used in this section, the filing of the following tolls the time within which a  
49 company is required to pay a judgment if the motion or application is filed within 15 days after  
50 the day on which service of notice of the entry of a judgment is served:

51           (i) a motion to set aside a judgment; or

52           (ii) an application for extraordinary writ.

53           (3) The commissioner shall suspend the license of the company not later than five days  
54 following receipt of notice from a prosecutor of the company's failure to pay the judgment.

55           (4) If the prosecutor receives proof of or notice of payment of the judgment during the  
56 suspension period under Subsection (3), the prosecutor shall immediately notify the  
57 commissioner of the payment. The notice shall be in writing and by the most expeditious  
58 means possible, including facsimile or other electronic means.

59 (5) The commissioner shall lift a suspension under Subsection (3) within five days of  
60 the day on which all of the following conditions are met:

61 (a) the suspension has been in place for no fewer than 14 days;

62 (b) the commissioner has received written notice of payment of the unpaid forfeiture  
63 from the prosecutor; and

64 (c) the commissioner has received:

65 (i) no other notice of any unpaid forfeiture from a prosecutor; or

66 (ii) if a notice of unpaid forfeiture is received, written notice from the prosecutor that  
67 the unpaid forfeiture has been paid.

68 (6) The commissioner shall commence an administrative proceeding and revoke the  
69 license of a company that fails to meet the conditions under Subsection (5) within 60 days  
70 following the initial date of suspension.

71 (7) This section does not restrict or otherwise affect the rights of a prosecutor to  
72 commence collection proceedings under Subsection 77-20b-104(5).

73 Section 2. Section **77-20b-104** is amended to read:

74 **77-20b-104. Forfeiture of bail -- Notice to surety.**

75 (1) If a surety fails to bring the defendant before the court within the time provided in  
76 Section 77-20b-102, the prosecuting attorney may request the forfeiture of the bail by:

77 (a) filing a motion for bail forfeiture with the court, supported by proof of notice to the  
78 surety of the defendant's nonappearance; and

79 (b) mailing a copy of the motion to the surety by certified mail, return receipt  
80 requested.

81 (2) A court shall enter judgment of bail forfeiture without further notice if it finds by a  
82 preponderance of the evidence:

83 (a) the defendant failed to appear as required;

84 (b) the surety was given notice of the defendant's nonappearance in accordance with  
85 Section 77-20b-101;

86 (c) the surety failed to bring the defendant to the court within the six-month period  
87 under Section 77-20b-102; and

88 (d) the prosecutor has complied with the notice requirements under Subsection (1).

89 (3) The prosecutor shall notify the surety of the judgment of bail forfeiture by certified

90 mail, return receipt requested.

91 [~~(3)~~] (4) If the surety shows by a preponderance of the evidence that it has failed to  
92 bring the defendant before the court because the defendant is deceased through no act of the  
93 surety, the court may not enter judgment of bail forfeiture and the bond is exonerated.

94 [~~(4)~~] (5) The amount of bail forfeited is the face amount of the bail bond, but if the  
95 defendant is in the custody of another jurisdiction and the state extradites or intends to extradite  
96 the defendant, the court may reduce the amount forfeited to the actual or estimated costs of  
97 returning the defendant to the court's jurisdiction. A judgment under Subsection [~~(5)~~] (6) shall:

- 98 (a) identify the surety against whom judgment is granted;
- 99 (b) specify the amount of bail forfeited;
- 100 (c) grant the forfeiture of the bail; and
- 101 (d) be docketed by the clerk of the court in the civil judgment docket.

102 [~~(5)~~] (6) A prosecutor may immediately commence collection proceedings to execute a  
103 judgment of bond forfeiture against the assets of the surety.

---

---

**Legislative Review Note**  
**as of 2-10-10 1:49 PM**

**Office of Legislative Research and General Counsel**

---

---

**S.B. 252 - Bail Bond Act Amendments**

**Fiscal Note**

2010 General Session

State of Utah

---

---

**State Impact**

Enactment of this bill will not require additional appropriations.

---

**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals and businesses. Local government may be impacted due to the proposed change in statute.

---