

BOND FORFEITURE INSTRUCTIONS

1. **RECEIVING A BOND NOTICE** - You will receive either a "Notice to Surety of Nonappearance" or a "Notice of Defendant's Failure to Appear and Order to Commence Bond Forfeiture Proceedings" from the court.
 2. **ENTER INFORMATION** – enter from the notice in a tracking chart/database.
 - Date: The date the defendant failed to appear for his hearing. (Not the date notice was sent by the court or received by the bond company)
 - Bond Co: The name of the bond company (American, Statewide, etc.)
 - Name: Defendant's name. (SMITH, DAVID L.) (last name first)
 - Case Number: Court Case number and the code for the court if needed (041904618, SL means it came from Salt Lake District Court, WJ = West Jordan District Ct, etc.)
 - Amount of Bond: The \$\$ amount the bond company guaranteed.
 - Date Due: Six (6) months from the date defendant failed to appear (FTA) for court hearing. i.e: FTA on 12/4/12 so due date to enter would be 6/4/13)
 3. **FILE NOTICE IN TRACKING FILE** – Once the above information has been entered into the data base put the notice in the appropriate month file. (FTA in January, goes in January file, etc.)
- NOTE:** If the court does not send notice to the bond company within 30 days, the prosecutor's office has an additional 7 days to send the notice.
- The notice must be sent by certified mail to the bond company within that time frame. If notice is not sent to the bond company on a timely basis, the bond company is relieved of its responsibility under the bond.
4. **WAIT SIX MONTHS** - The bond company has 6 months to either bring the defendant to court or book him into jail.
 5. **AFTER SIX MONTHS ARE UP** - The court clerk should send you:
 - a. Copy of court docket
 - b. Affidavit of Mailing of Notice of Defendant's Non-Appearance (§ 77-20b-104 (1) (a)).
 - c. Copy of the Notice of Failure to Appear
 - d. Copy of the Undertaking of the Bail Bond
 - e. Copy of the green certified mail return card for the Notice of Failure to Appear signed by the bond company.The docket's last entry should indicate that copies of the docket, affidavit, etc have been sent to the prosecutor to prepare the Motion and Order for Judgment of Forfeiture.
 6. **MAKE A JUDGMENT FILE** - Make a file folder (letter size manilla file folder) for each judgment.
 - a. Go to your file drawer to the month in which the defendant failed to appear (i.e. January, June, etc.) and pull out the Notice of Failure to Appear you first received from the court. Add it to your file with the court docket.
 7. **PREPARE MOTION FOR JUDMENT OF FORFEITURE & HAVE ATTORNEY SIGN**
 8. **MAKE BAIL FORFEITURE PACKET**
 - a. Make 2 copies of originals:
 - i. Motion for Judgment of Forfeiture
 - ii. Judgment of Forfeiture
 - iii. Affidavit of Mailing of Notice of Defendant's Non-Appearance
 - iv. Notice of Failure to Appear

- v. Undertaking of Bail
- vi. Copy of the green Certified Mail return card
- b. Send the originals back to the clerk of the court that sent them to you.
- 9. **SEND ALL ORIGINALS TO THE COURT.** Mail one copy of the packet to the bond company. (regular mail – not certified). The second copy goes in Judgment file.
- 10. **ONCE JUDGE SIGNS THE ORDER OF FORFEITURE** – Court clerk will send a copy of the signed Order to Prosecutor. Then:
 - a. Pull Judgment file.
 - b. Enter the date the order is signed in the bond data base in the field "Action Taken" (i.e. Judgment 01/05/2005)
 - c. Prepare the Bond Company Demand Letter.
 - d. Make one copy of the letter and signed order.
 - e. Mail the original letter and a copy of the signed order to the bond company
 - f. Keep the copy in your file.
 - g. On your calendar count out 14 days and put a note that money from the bond company is due on that case.
 - h. If the bond company does not pay the judgment by your call up date, pull your file for attorney to review and call the bond company.
- 11. **ONCE MONEY FROM BOND COMPANY IS RECEIVED** - The bond company may send the check to you, the attorney or the court.
 - a. If it goes to Attorney - pull Judgment file and prepare a Satisfaction of Judgment.
 - b. If it goes to the court directly, the clerk will let you know that the bond has been paid and ask you to prepare the Satisfaction of Judgment
 - c. Enter the information in your "Bond Stats"
 - d. Prepare the Satisfaction of Judgment
 - e. Give the Satisfaction to the attorney to sign
 - i. Make sure there is a signed unsworn declaration on the satisfaction (UCA §78B-5-705)(This need not be notarized)
 - f. Make 2 copies of the satisfaction
 - g. Make 1 copy of the check (if you have it) and staple the check (if you have it) to the Original Satisfaction of Judgment and send it to the appropriate court clerk
 - h. Send copy of the satisfaction to the bond company
 - i. Staple the copy of the check to your file copy of the satisfaction.
 - j. Enter the date in the Bond data base in the field "Disposition" (i.e. Satisfaction 1/15/2005)
 - k. Enter the amount paid by the bond company in the "Funds
 - l. Collected" field. (e.g. \$10,000.00). This should be the same amount as in the "Amount of Bond" field. If it is not, make a note in the "Misc" field as to why. (e.g. The attorney settled for lower amount because....)
 - m. Place your file in the "Closed Bonds" drawer.
- 12. **NOTICE TO PROSECUTOR OF SURETY'S FAILURE TO PAY JUDGMENT OF FORFEITURE ON THE BOND** - when you receive a Notice to Prosecutor packet (it will include a signed judgment) from the clerk of the court:
 - a. Pull your file
 - b. Prepare the "Letter to Insurance Commissioner's Office" in care of Cathy Burton (801-537-9113).
 - c. Give the file with the letter on top to the attorney to sign
 - d. After the attorney signs the letter, fax the letter, Notice to the Prosecutor and signed judgment to Cathy Burton (Fax 801-538-9113) and the bond company.
 - e. Make 2 copies of the Notice, Judgment and Letter. (complete packet)
 - f. Mail the originals to Cathy Burton at the insurance commissioner's office. Mail one copy to the bond company. Keep the other copy in your file

(Cathy Burton telephones the bond company and advises them that they have a

certain amount of time in which to pay the judgment. If they do not pay by the deadline she gives them, the insurance commission suspends their license to do business for a minimum of 60 days. They usually pay quickly after receiving a call from Cathy. If the bond company does not pay the judgment, Cathy lets the court and the prosecutor's office know that the bond company's license is suspended. The judgment stays in place along with their suspension until it is paid in full.)

OTHER ISSUES:

1. **MOTION FOR EXTENSION OF TIME FROM BOND COMPANY** - When you receive a Motion for Extension of Time from a bond company:
 - a. Search for the defendant's name in the bond data base
 - b. Write the date the defendant failed to appear on the motion
 - c. Pull the Notice of Failure to Appear from your drawer
 - d. Staple it all together and give it to the attorney to review
2. **MOTION TO EXONERATE BOND** - When you receive a Motion to Exonerate the Bond look at the affidavit from the bond company to see the reason they are asking for the exoneration.
 - a. If it is because they claim the defendant is in one Utah's jails, check to verify that the defendant was arrested and that he was arrested on the charges for that bond. If the defendant is in another jurisdiction's jail, call that jail to verify the date of arrest, release date and to see if he were arrested on our warrant.
 - b. If defendant was arrested, etc. write the date of the arrest and release date on the pleading and the date that you verified the information. Then check the database to the Failure to Appear date and staple the Motion to Exonerate to that notice and put it back in the drawer.
 - c. If there is another reason why they want the bond exonerated, pull the notice, staple it to the motion and give it to the attorney to review.

What are VALID reasons for exoneration?

1. The defendant has died through no fault of the bond company.
2. The defendant has been booked into one of our jails on the warrant that was issued on this particular case.
3. The defendant has been arrested on these charges in another jurisdiction (not an Indian reservation.)
4. The defendant showed up in court
5. Notice of the FTA was not sent to the bond company in a timely fashion (i.e. 30 or 37 days)
6. Defendant is in federal custody awaiting deportation or has already been deported. (See UCA §77-20b-101 (4) (d) (v))
7. Any other reason the bond company can get the judge to agree is a good enough reason. (See UCA §77-20b-101 (4) (e))

Provided by: David Walsh – Deputy Salt Lake District Attorney