

2017 Regular Session

SENATE BILL NO. 234

BY SENATOR LAFLEUR

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL PROCEDURE. Provides relative to conditions of providing a property bond for purposes of bail. (gov sig)

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 323(A) and (B), relative to bail;

3 to provide that a secured personal surety cannot mortgage movable property to

4 secure a bail undertaking; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 323(A) and (B) are hereby amended
7 and reenacted to read as follows:

8 Art. 323. Secured personal surety

9 A. A secured personal surety is a personal surety who satisfies all the

10 requirements of Article 311(5) and specifically mortgages immovable property

11 located in the state of Louisiana. **The provisions of this Article shall not apply to**

12 **movables and any bail undertaking purporting to be secured by movable**

13 **property shall be deemed to be unenforceable and null and void.**

14 B. Bail without surety may be secured by a mortgage on the **immovable**

15 property of the defendant pursuant to this Article or unsecured. A secured personal

16 surety may establish a mortgage over immovable property in favor of the state of

17 Louisiana or the proper political subdivision to secure a bail undertaking.

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2 Section 2. This Act shall become effective upon signature by the governor or, if not
3 signed by the governor, upon expiration of the time for bills to become law without signature
4 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
5 vetoed by the governor and subsequently approved by the legislature, this Act shall become
6 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

SB 234 Original

2017 Regular Session

LaFleur

Present law provides that in the context of bail a "personal surety" is a natural person domiciled in the state of Louisiana who owns property in the state that is subject to seizure and is of sufficient value to satisfy, considering all his property, the amount specified in a bail undertaking. Present law further provides that the value of the property excludes the amount exempt from execution, and must be over and above all other liabilities, including the amount of any other bail undertaking on which he may be principal or surety. Present law further provides that a bail undertaking of a personal surety may be unsecured or secured.

Proposed law retains present law.

Present law provides that a secured personal surety is a personal surety who satisfies all the requirements of present law relative to personal sureties and who specifically mortgages immovable property located in the state of Louisiana.

Proposed law retains present law and adds that the provisions of present law do not apply to movables and any bail undertaking purporting to be secured by movable property is unenforceable and null and void.

Present law provides that bail without surety may be secured by a mortgage on the property of the defendant pursuant to present law or may be unsecured.

Proposed law retains present law and clarifies that a mortgage on the property of the defendant applies only to immovable property.

Present law further provides that a secured personal surety may establish a mortgage over immovable property in favor of the state of Louisiana or the proper political subdivision to secure a bail undertaking.

Proposed law retains present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends C.Cr.P. Art. 323(A) and (B))