

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(B), relative to bail; to
3 provide that a secured personal surety specifically relate to identified property; and
4 to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

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

8 Art. 323. Secured personal surety

9 * * *

10 B. Bail without surety may be secured by a mortgage on the **immovable**
11 property of the defendant pursuant to this Article or unsecured. A secured personal
12 surety may establish a mortgage over immovable property in favor of the state of
13 Louisiana or the proper political subdivision to secure a bail undertaking. **The**
14 **security shall apply only to and be limited to that immovable property**
15 **specifically described in the mortgage.**

16 * * *

17 Section 2. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
 2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 4 effective on the day following such approval.

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ashley Menou.

DIGEST

SB 234 Engrossed

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.

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 provides that the security shall only apply to and be limited to that immovable property specifically described in the mortgage.

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(B))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Removes provision that would have prohibited bail undertaking being secured by movable property.
2. Clarifies that a secured personal surety's mortgage to secure a bail undertaking is limited to and only applies to the immovable property specifically described in the mortgage.