

Regular Session, 2014

HOUSE BILL NO. 540

BY REPRESENTATIVE THIERRY

BONDS: Provides with respect to electronic bond forfeitures

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 322(A) and 349.3, relative to
3 notice of bond forfeiture; to authorize the use of electronic mail by a commercial
4 surety in executing a bond; to authorize the use of electronic mail to send the notice
5 of judgment of bond forfeiture; to require the agreement of all parties to use
6 electronic mail to provide such notice; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Articles 322(A) and 349.3 are hereby
9 amended and reenacted to read as follows:

10 Art. 322. Declaration of residence by defendant and surety; social security number;
11 waiver of notice

12 A. The defendant and personal surety signing a bail bond shall write the
13 address at which each can be served under their respective signatures and the last
14 four digits of their social security number. The defendant and his counsel may, by
15 joint affidavit filed of record in the proceeding in which the bond was given, appoint
16 his counsel as his agent for service of notice to appear. The appointment shall be
17 conclusively presumed to continue until the defendant files of record an affidavit
18 revoking or changing the appointment. The affidavit shall include the address at
19 which to serve his counsel. A commercial surety shall inscribe its ~~proper mailing or~~
20 electronic address on the face of the power of attorney used to execute the bond. The

1 agent or bondsman posting the bond shall write his proper mailing address under his
2 signature. A bail bond shall not be set aside because of the invalidity of the
3 information required by this Article or for the failure to include the information
4 required by the provisions of this Article.

5 * * *

6 Art. 349.3. Notice of judgment

7 A.(1) After entering the fact of the signing of the judgment of bond forfeiture
8 in the court minutes, the clerk of court shall promptly mail notice of the signing of
9 the judgment of bond forfeiture. The notice of the signing of the judgment shall be
10 mailed by United States certified mail with return receipt affixed thereto or by
11 electronic mail as provided for in Subparagraph (2) of this Paragraph. The notice
12 shall be mailed to the defendant, the personal surety, the agent, or bondsman who
13 posted the bond for the commercial surety, and the commercial surety at the
14 addresses designated in Article 322, or an address registered with the ~~Louisiana~~
15 Department of Insurance. Notice to the commercial surety shall include the power
16 of attorney number used to execute the bond without which the bond obligation of
17 the commercial surety shall be suspended until the power of attorney number is
18 supplied, provided the commercial surety provides notice to the clerk of court who
19 mailed the notice to the surety of the failure to include such number in the notice by
20 certified mail not later than thirty days following receipt of notice of the judgment.
21 If the power of attorney number is not provided to the commercial surety within
22 thirty days after the date of receipt by the clerk of court of the notice that it was not
23 included in the notice of the judgment, the commercial surety shall be released from
24 the bond obligation.

25 (2) The clerk of court may use electronic mail to provide notice to the parties
26 provided for in Subparagraph (1) of this Paragraph. The clerk shall only use
27 electronic mail if the defendant, the personal surety, the agent, or the bondsman have
28 agreed to receive notice by electronic mail, and the clerk is in possession of a valid
29 electronic mail address provided by the defendant, the personal surety, the agent, or

1 the bondsman. The clerk shall otherwise follow the procedures provided for in
2 Subparagraph (1) of this Paragraph.

3 (3) The defendant shall reimburse the clerk of court for postage and other
4 costs incurred by the clerk to send the notice required in ~~Paragraph A of this Article~~
5 Paragraph.

6 B. After ~~mailing~~ sending the notice of the signing of the judgment of bond
7 forfeiture, the clerk of court shall execute an affidavit of the mailing and place the
8 affidavit and the return receipts in the record.

9 C. Failure to ~~mail~~ send notice of the signing of the judgment within sixty
10 days after the defendant fails to appear shall release the sureties of all obligations
11 under the bond.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Thierry

HB No. 540

Abstract: Authorizes the use of e-mail to provide notice of judgment of bond forfeiture.

Present law requires a commercial surety to inscribe its proper mailing address on the face of the power of attorney used to execute the bond for declaration of residence.

Proposed law retains present law and adds the option to provide an e-mail address.

Present law requires, after entering the signing of the judgment of bond forfeiture in the court minutes, the clerk of court to promptly mail notice of the signing of the judgment of bond forfeiture. Requires the notice of the signing of the judgment to be mailed by U.S. certified mail.

Proposed law retains the provisions of present law and further provides that the clerk of court may use e-mail to provide notice to the parties.

Proposed law further provides that the clerk shall only use e-mail if the defendant, the personal surety, the agent, or the bondsman have agreed to receive notice by e-mail and the clerk is in possession of a valid e-mail address provided by the defendant, the personal surety, the agent, or the bondsman.

(Amends C.Cr.P. Arts. 322(A) and 349.3)