
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cheryl Cooper.

SB 281 Original	DIGEST 2016 Regular Session	Ward
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Present law allows any prosecuting attorney to file with the commissioner's office a rule to show cause provided all of the following are true:

- (1) A judgment of bond forfeiture has been rendered after June 22, 1993, against the commercial surety underwriter.
- (2) Notice pursuant to Code of Criminal Procedure Article 349.3 has been mailed.
- (3) No suspensive appeal has been taken.
- (4) The defendant has neither been surrendered nor appeared within 180 days of mailing of the notice of the signing of the judgment of bond forfeiture.
- (5) More than 180 days has lapsed from the mailing of the notice of the signing of the judgment of bond forfeiture.
- (6) The judgment of bond forfeiture has not been satisfied by payment.

Proposed law retains present law.

Present law requires the commissioner to provide written notice of a hearing to show cause to the insurance company, the commercial surety, or Lloyd's Association within 30 days of the filing of a rule to show cause. Further provides that if after the hearing, the hearing officer finds that there is no just cause or legal reason for the surety's nonpayment, the commissioner shall take any action deemed necessary for the collection of the amount owed, including suspension of the surety from doing business in La.

Proposed law deletes present law.

Present law requires the commissioner to order the commercial surety underwriter to pay immediately the judgment of bond forfeiture, if the commissioner finds that all of the following are true:

- (1) A judgment of bond forfeiture has been rendered after June 22, 1993, against the commercial surety underwriter.
- (2) Notice pursuant to Code of Criminal Procedure Article 349.3 has been mailed.
- (3) No suspensive appeal has been taken.

- (4) The defendant has neither been surrendered nor appeared within 180 days of mailing of the notice of the signing of the judgment of bond forfeiture.
- (5) More than 180 days have lapsed from the mailing of the notice of the signing of the judgment of bond forfeiture.
- (6) The judgment of bond forfeiture has not been satisfied by payment.

Proposed law deletes present law.

Proposed law requires a commercial surety or insurance company to provide to the commissioner evidence that the forfeiture was paid, or that a motion contesting the validity of the bail bond forfeiture was filed with the court where the judgement of bail bond forfeiture was rendered within 30 days after the commercial surety or insurance company is notified by the commissioner of the order to pay the bail bond forfeiture.

Proposed law provides if, after 30 days, the commercial surety has not provided evidence to the commissioner that the judgement of bail bond forfeiture was paid or that a motion contesting the validity of the judgment was filed, the commissioner's order to pay the forfeiture becomes final.

Proposed law grants the commercial surety or insurance company 30 days from the date of the commissioner's order to pay the judgement or to file a petition of appeal to the division of administrative law to hold a hearing. Further provides that the administrative law judge shall determine whether or not each of the following is true:

- (1) A judgment of bond forfeiture has been rendered after June 22, 1993, against the commercial surety underwriter.
- (2) Notice pursuant to Code of Criminal Procedure Article 349.3 has been mailed.
- (3) No suspensive appeal has been taken.
- (4) The defendant has neither been surrendered nor appeared within 180 days of mailing of the notice of the signing of the judgment of bond forfeiture.
- (5) More than 180 days has lapsed from the mailing of the notice of the signing of the judgment of bond forfeiture.

If the commercial surety or insurance company does not meet their burden of proof, proposed law requires the administrative law judge to enter an order upholding and confirming the commissioner's order to pay the judgment of bail bond forfeiture.

Effective August 1, 2016.

(Amends R.S. 22:1441)