

SENATE COMMITTEE AMENDMENTS

2016 Regular Session

Amendments proposed by Senate Committee on Judiciary C to Original Senate Bill No. 123
by Senator Claitor

1 AMENDMENT NO. 1

2 On page 1, line 4, after "(A)(1) through (5)," insert "(C)(1),"

3 AMENDMENT NO. 2

4 On page 1, line 5, after "and (D)," insert "to enact R.S. 22:1441(C)(3) through (5),"

5 AMENDMENT NO. 3

6 On page 54, line 6, after "(A)(1) through (5)," insert "(C)(1),"

7 AMENDMENT NO. 4

8 On page 54, at the beginning of line 8 after "and reenacted" insert "and R.S. 22:1441(C)(3)
9 through (5) are hereby enacted"

10 AMENDMENT NO. 5

11 On page 54, delete line 28 and insert the following:

12 "C.(1) Within thirty days of the filing of a rule to show cause by the
13 prosecuting attorney with the commissioner of insurance, the commissioner of
14 insurance shall ~~notify~~ **provide written notice to** the insurance company, ~~the or~~
15 commercial surety, or Lloyd's Association, in writing, at the address of the home
16 office of that organization by certified mail, setting a time, place, and date of the
17 hearing, ~~of the filing of the rule to show cause and bail bond forfeiture judgment~~
18 **ordering the insurance company or commercial surety to pay the judgment of**
19 **bond forfeiture.** ~~which shall not be more than sixty days from the date of receipt of~~
20 ~~notice from the prosecuting attorney. If after the hearing, the hearing officer finds~~
21 ~~that there is no just cause or legal reason for the surety's nonpayment, the~~
22 ~~commissioner shall take any action deemed necessary for collection of the amount~~
23 ~~owed, including suspension of the surety from doing business in the state of~~
24 Louisiana."

25 AMENDMENT NO. 6

26 On page 55, between lines 18 and 19, insert the following:

27 **"(3) Within thirty days after the commercial surety or insurance**
28 **company is notified by the commissioner of the rule to show cause and bail bond**
29 **forfeiture, the commercial surety or insurance company shall provide to the**
30 **commissioner evidence that the forfeiture was paid, or that a motion contesting**
31 **the validity of the bail bond forfeiture was filed in the court where the judgment**
32 **of bail bond forfeiture was rendered. The commercial surety or insurance**
33 **company may, for good cause shown, petition the commissioner in writing for**
34 **an extension of time. The granting or denial of the extension shall be at the sole**
35 **discretion of the commissioner.**

36 **(4) If, after thirty days, the commercial surety or insurance company has**
37 **not provided evidence that the judgment of bail bond forfeiture was paid or that**
38 **a motion contesting the validity of the judgment of bail bond forfeiture was**
39 **filed, the commissioner shall petition the division of administrative law to hold**
40 **a hearing, naming the commercial surety or insurance company as the**
41 **respondent requiring the commercial surety or insurance company to show**

1 cause why the commissioner's order to pay the bond forfeiture should not be
2 upheld and confirmed. Upon receipt of the commissioner's petition to hold a
3 hearing, the division of administrative law shall notify the commercial surety
4 or insurance company at the address of the home office of that organization of
5 the setting of the time, place, and date for a hearing to be held in the manner
6 provided in Chapter 12 of this Title, R.S. 22:2191 et seq.

7 (5) At the hearing, the administrative law judge must rule whether the
8 following are true:

9 (a) A defendant failed to appear after January 1, 2017, and a judgment
10 of bond forfeiture has been rendered, against the commercial surety
11 underwriter.

12 (b) Notice pursuant to Code of Criminal Procedure Article 349.3 has
13 been mailed.

14 (c) All time delays for taking a suspensive appeal, as set forth in Code of
15 Civil Procedure Article 2123, have run and no suspensive appeal has been
16 taken.

17 (d) The defendant has neither been surrendered, constructively
18 surrendered, nor appeared within one hundred eighty days of the execution of
19 the certificate that notice of warrant for arrest was sent.

20 (e) More than one hundred eighty days have lapsed since the execution
21 of the certificate that notice of warrant for arrest was sent.

22 (f) The judgment of bond forfeiture has not been satisfied by payment."

23 AMENDMENT NO. 7

24 On page 55, at the beginning of line 19, after "D." insert "(1)"

25 AMENDMENT NO. 8

26 On page 55, between lines 25 and 26, insert the following:

27 "(2) If the commercial surety or insurance company does not meet the
28 burden of proof set forth in Paragraph (1) of this Subsection, then the
29 administrative law judge shall enter an order upholding and confirming the
30 commissioner's order to the commercial surety or insurance company to pay
31 the bond forfeiture."