

What You Need To Know
About...

BAIL BONDS

Posted In The

U.S. District Court
Western District of New York



Office of the Clerk
U.S. Courthouse
2 Niagara Square
Buffalo, New York 14202-3350

(716) 551-1700

What You Need to Know About

BAIL BONDS

This pamphlet contains information you should know about the responsibilities and conditions of posting bail for a criminal defendant as ordered by a federal judge, and details the policies and procedures on the handling of bail bonds.

WHAT IS A BAIL BOND?

Bail is security given for the release of a criminal defendant or witness from legal custody (usually in the form of money) to secure his/her appearance on the day(s) and time(s) set by the Court.

Bonds may be ordered to be posted in the form of cash, signature, secured bond through a surety company, property, or combination of forms. All bonds must be ordered by the Court before acceptance by the Clerk's Office. In criminal matters, this Order is done through an Appearance Bond.

WHO CAN POST A BAIL BOND?

At a formal bail hearing, the presiding Judge will hear information relevant to considerations for fixing bail. If a secured bond or surety bond is being considered, official inquiries will be made about the individual's financial resources and, if appropriate, the sources of any property (including cash) to be offered as collateral.

The individual(s) who is ultimately found by the Court to be a solvent surety will need to be present at a bail hearing in order to execute the Appearance Bond by signing it, along with the Defendant, in the presence of the Judge. Both

the Surety and the Defendant are also informed of their obligations and responsibilities. *Failure by the Defendant to appear as required and/or violating any condition of release may result in the bail being revoked. The Judge may then declare any property (including the full amount of a cash bond) to be forfeited to the United States.*

TYPES OF BAIL BONDS

Cash Bonds

Cash bonds should be tendered to the cashier located in the District Court Clerk's Office. The term "cash" bail includes certified checks, cashier's checks or money orders. Please note that cash is no longer an acceptable form of payment in the Western District of New York.

All bail bonds will be receipted by the cashier in the name of the Surety only, as indicated on the Appearance Bond. The original receipt should be maintained in a safe place, as it will need to be surrendered to the Clerk's Office upon refund.

The cashier will ensure that all sureties posting monies in criminal matters, regardless of the amount, complete and sign the appropriate tax form certifying their tax identification number (IRS Form W-9) or certification of their foreign status (IRS Form W-8BEN).

The Court is required to report to the Internal Revenue Service any cash bail in excess of \$10,000 for specified criminal charges. The Surety will be required to provide the necessary information to the Clerk's Office in order to be in compliance with IRS rulings under Form 8300.

Signature Bonds

Signature bonds are executed when a defendant is released on their own personal recognizance, and is therefore unsecured. Each Judge's Courtroom Deputy is responsible for preparing and scheduling a hearing in order to execute the proper documents. They must be contacted directly to determine what the Judge's requirements are.

Corporate Surety Bonds Bail bondsmen used on federal bonds must comply with certain guidelines. First, all sureties used must be on the Department of Treasury's Listing of Approved Sureties (Circular 570). This listing is available on the internet at <http://www.fms.treas.gov/c570/c570.html>.

The agent appointed by the surety company must have a valid power of attorney filed with the Court. There is a fee to file a power of attorney with the Court, however the power of attorney is only valid until revoked by the Surety. An attorney preparing to file a surety bond with the Court may call the Intake Section of the Clerk's Office at (716) 551-1700 to verify compliance before filing.

Property Bonds

A property bond may be approved by the Judge as collateral to secure a bond. Posting a property bond is handled directly by the Judge's Courtroom Deputy. Certain documents must be presented to the Court (ie., proof of ownership, property valuation, existing encumbrances, etc.). Therefore, anyone posting a property bond should be sure to check with the presiding Judge for any additional requirements which may vary on an individual case basis.

REFUND OR RELEASE OF BAIL BONDS

Any action necessary by the Court to release a bond is performed upon motion or filing with the Court. A bond refund or release is not performed as a standard procedure upon conclusion of a case. Specific action must be requested by the Defendant or interested party.

Cash Bonds

Cash bonds are only released upon Order of the Court. First, the Surety must notify the Clerk's Office that a refund is being requested. The original U.S. District Court receipt that was issued upon deposit must be submitted in order for the refund process to be initiated. If for any reason the original receipt was lost or misplaced, please contact the Financial Department of the Clerk's Office at (716) 551-1730 for further instructions.

Bond monies may only be returned to the Surety unless a notarized "Assignment of Bail" has been filed with the Court. If no assignment was filed, the Financial Department will verify that the case has been concluded. *This includes the time allowed for any voluntary surrender by the defendant to a correctional facility, as well as the extension of time involved with any appeals process.* Once verification has been made, the Financial Department will prepare an Order requesting the refund of cash bail for the presiding Judge's signature.

Upon receipt of a signed Order from the Judge, the Financial Department will draw a registry check for the refund as soon as the business of the office allows. The check will then be given or mailed only to the payee of the check unless otherwise stated in the Order.

The refund of cash bail procedures may be completed by mail by sending the appropriate documentation to the Clerk's Office at the following address:

United States District Court
Attn: Financial Department
2 Niagara Square
Buffalo, New York 14202-3350

In some instances, the cash bail deposit may be transferred to the Treasury of the United States upon Court Order as payment of an imposed special assessment, fine and/or restitution pursuant to 28 U.S.C. § 2044.

Signature Bonds

Signature bonds expire automatically upon satisfaction or completion of the terms set forth in the bond (ie., the defendant surrendering into custody or being exonerated). No further action is required.

Corporate Surety Bonds

Surety bonds normally expire automatically upon satisfaction or completion of the terms set forth in the bond (ie., the defendant surrendering into custody or being exonerated). If specific action is necessary to terminate the surety bond, the Defendant should motion the Court directing the action required to terminate the bond. Upon Order from the Court, the appropriate action will be taken.

Property Bonds

Property bonds are maintained directly by the U.S. Attorney's Office. The Assistant U.S. Attorney assigned to the case should be contacted by the property owner in order to release the bond. They may contact the U.S. Attorney's Office at (716) 843-5700 and request a "Release of Lien" form be executed.