

Bonds - Posting and Refund Procedures

Posting of Bonds

Bonds may be posted with the Court for bail, temporary restraining orders, and other matters as ordered by a Judge. Bonds may be ordered to be posted in the form of cash, signature, secured bond through a surety, property, or combination of forms. All bonds must be ordered by the Court before being accepted by the Clerk's Office. In criminal matters, this Order is done through an Appearance Bond.

- ✓ **Cash Bonds:** Cash bonds should be tendered to the cashier located in the District Court Clerk's Office. Actual cash is no longer accepted by the Clerk's Office; however, money orders, bank drafts or cashier's checks are accepted and should be made payable to Clerk, U.S. District Court. All bail bonds will be receipted by the cashier in the name of the Surety as indicated on the Appearance Bond.
- ✓ **Signature Bonds:** Signature bonds are executed before the Judge and handled directly by Chambers. Each Judge's individual Courtroom Deputy is responsible for preparing and scheduling a hearing in order to execute the proper documents.
- ✓ **Secured Bonds:** Sureties 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 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 of a property bond is handled directly by the Judge's Courtroom Deputy. Certain documents must be presented to the Court (ie., copy of the deed to the property). Therefore, anyone posting a property bond with the Court 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 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:** All cash bonds, other than bail bonds, are released only upon Order of the Court. The interested party should motion the Court appropriately.

Bail bonds are also released upon Order of the Court. However, the first step a Surety must take is to notify the Financial Department of 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.

Additionally, IRS Form W-9 or W-8BEN certifying the recipient's taxpayer identification number or certification of foreign status must be completed and submitted to the Financial Department. This form is required for all deposits that have been placed in interest-bearing accounts in order for recipients to receive 1099's at year end. Please refer to the "Registry Investments" documentation, which addresses the topic of "Funds Held in Local Depository," for further information on interest-bearing accounts and associated administrative fees.

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 forms 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. If you have any questions on these procedures, please contact the Financial Department at (716) 551-1730.

- ✓ **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.
- ✓ **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 handled 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. You may contact the U.S. Attorney's Office at (716) 843-5700 and request to have a "Release of Lien" form executed.