

## **Rule 116. Bonds and Sureties**

### **(a) Authorization of sureties.**

(1) By Court order. Except by Court order no person shall be authorized to engage in the bonding business in criminal cases in this Court. No order of authorization shall be entered until such application and such supporting documents as are hereinafter required shall have been filed and the approval by this Court shall have been noted thereon.

(2) Contents of application. Every individual proposing to engage in the bonding business in criminal cases in this Court shall file with the Court a written application which shall set forth the following information and statements under oath:

(i) A listing of real estate owned by the applicant in the District of Columbia. The listing shall state with respect to each parcel: The street address, lot and square number, the current assessed value, the date and from whom title was acquired, the purchase price whether paid in cash or otherwise, the liber and folio of the land records of said District recording the deed or deeds thereto; that the property is not in any way encumbered; whether the property is improved and description of any improvements granted; if married, the applicant shall fully disclose the nature and extent of the spouse's title or interest in any or all parcels of real estate listed; and an Abstract of Title, establishing clear and unencumbered Title to such real estate;

(ii) The amount of the applicant's unsecured indebtedness and obligations, together with a prepaid request to a Credit Bureau specified by the Court for a full Credit Report to be mailed by the Bureau directly to the Court;

(iii) Whether the applicant is, or has been, in default in the payment of forfeited bail bond or recognizance in any court in the District of Columbia, the amount of bail bond or recognizance on any default recited, the date of forfeiture, the court, title and number of the cause in which such forfeiture was declared;

(iv) Whether the applicant has ever been arrested, charged or convicted of any offense;

(v) Proof of applicant's good moral character, attested by the statements of at least 2 residents of the District of Columbia not related to the applicant, and who shall so certify;

(vi) A declaration by the applicant that the applicant will in all respects abide by the terms and provisions of these Rules and Chapter 11 of Title 23 of the D.C. Code;

(vii) A listing of the name, age and residence of each and every person authorized to represent the applicant as agent, clerk or representative in the bonding business, accompanied by an affidavit from each person listed, declaring that the person will in all respects abide by the terms and provisions of these Rules and Chapter 11 of said Title 23;

(viii) Each person holding a power of attorney from an authorized individual surety shall file a duplicate original copy thereof with the Clerk of this Court, together with the person's affidavit stating whether the person has ever been arrested, charged or convicted of any offense, accompanied by the written statement of at least 2 residents of the District of Columbia who certify to the agent's good moral character and that they are not related to the said surety or agent;

(ix) The application shall also recite the following declaration to which the applicant shall fully agree and subscribe:

"In the event this application is approved, I will not sell, convey, mortgage, or otherwise encumber any of the real estate listed herein without first obtaining leave of court, and I do hereby irrevocably stipulate and agree that any person, company or corporation may advise the Clerk of this Court of any information with respect to any sale, conveyance, mortgage, encumbrance or title examination which affects the real estate listed in this application; and, I hereby agree that if this application is approved, any and all property listed herein is to be held to satisfy any unpaid forfeiture of any bond or bonds written by me during the period of my authorization, and the order granting this application shall constitute a lien against all of the real estate involved herein, for the purpose of satisfying any forfeiture which may hereafter be declared against me, either in this Court or in the United States District Court for the District of Columbia; and it is further agreed that this lien will be filed with the Recorder of Deeds of the District of Columbia, upon the granting of this application and continue as a lien on such property until duly released by the court. If so released, the Court could cancel the authority granted pursuant to this Application."

(3) Date of filing. An application containing like statements shall be filed on or before the 10th day of January of each 2nd year thereafter, or oftener if required by the Court, by each individual surety desiring to continue in said business, which application must receive the approval of the Court before the surety shall be entitled to continue to appear as surety on bonds or recognizances in this Court.

(4) Further affidavits. With each application for renewal there shall also be filed an affidavit to the effect that since the surety's previous qualifications the surety has in all respects abided by the terms and provisions of these Rules and Chapter 11 of said Title 23, together with a certificate of the Clerk of this Court wherein it is stated that the Clerk has examined the records of the applicant and found them to be in good order as to form.

(5) Other requirements. The original application of every individual proposing to engage in the bonding business, and every application for renewal of authority to continue herein, shall state the aggregate amount of bonds or recognizance in any court of the District of Columbia upon which such person is surety.

(6) Fingerprinting. The applicant shall submit to the taking of the applicant's fingerprints by the Clerk of this Court, as shall each person authorized to represent the applicant as agent, clerk or representative in the bonding business. On all renewals, the Clerk of the Court, with the approval of the Chief Judge, may waive the requirement for re-fingerprinting.

(b) Scope and suspension of authorization.

(1) Monetary limit on authorization. Except as otherwise limited herein, the authorization by this Court shall be effective so long as the aggregate penalties of the bonds written thereunder shall not exceed 3 times the amount of the current assessed value of the real estate listed. Provided, however, that when 2 or more sureties join in the writing of a single bond, the penalty of the bond shall be prorated between the several sureties, either equally or on the same proportionate basis as the sureties participate in the writing of the bond, as the case may be.

(2) Revocation and suspension of authority. Any authorization given pursuant to these Rules may be revoked for good cause shown after notice and hearing at any time

by this Court or any judge thereof. When it appears to the Court that the public interest so requires, any authorization given pursuant to these Rules may upon the order of any 3 judges of the Court be suspended prior to hearing upon the issue of good cause for a period not exceeding 60 days.

(3) Suspension due to forfeiture. Whenever any forfeiture is declared under any bond in any court in the District of Columbia, the authority granted by this Court to the authorized surety thereon shall be automatically suspended 14 days after such forfeiture is declared until the said forfeiture is satisfied in full, or until further order of this Court.

(4) Suspension on sale of listed property. Any person engaged in the business of executing bonds for compensation in this Court, who, after having filed with the Clerk of the Court the application required by these Rules, shall sell, convey, mortgage or otherwise encumber any of the real estate listed in the application, shall be suspended from the executing other or further bonds until the further order of the Court unless the person forthwith reports the said transaction to the Court and the person's limit of liability shall be correspondingly reduced.

(5) Suspension due to activities besides bonding. Any person engaged in the business of executing bonds for compensation in this Court who shall appear in any cause before the Court, the Office of the United States Attorney, or the Office of the Corporation Counsel, in a representative capacity, except for the purpose of discharging the person's duties as a surety in said cause, shall be suspended from executing other or further bonds until the further order of this Court.

(6) Suspension due to excess commission fees. Any surety who shall charge and receive a commission, fee or other remuneration in excess of \$ 10 per \$ 100 of any bond executed by the surety in this Court shall be suspended from writing other or further bonds until the further order of this Court.

(7) Suspension for procuring business for an attorney. Any surety who procures or assists in procuring or attempts to procure the retention or employment of any attorney to represent any person charged with an offense cognizable in this Court, or solicits or receives or enters into any agreement to receive any fee, commission money, property or other things of value for procuring or assisting or attempting to procure the retention or employment of any attorney to represent any person charged with an offense cognizable in this Court, shall be suspended from executing other or further bonds until the further order of this Court.

(8) Suspension for loitering to solicit business. Any surety, the surety's agents or employees who are guilty of loitering in or about or in the vicinity of any place where persons in the custody of law are detained, or of this Court, for the purpose of soliciting bonds or who shall obtain a bond through such loitering shall be suspended from executing any other or further bonds until the further order of this Court.

(9) Suspension for procuring business in certain instances. Any surety who, either directly or indirectly, gives, donates, lends, contributes, or promises to give, donate, lend, or contribute anything of value whatsoever to any attorney at law, police officer, deputy United States Marshal, jailer, probation officer, clerk, or other attache of a criminal court, or public official of any character, for procuring or assisting in procuring any person to employ the surety to execute as surety any bond for compensation in any

criminal case shall be suspended from executing other or further bonds until the further order of this Court.

(c) Duties of the surety.

(1) Maintenance of office. Each authorized bondsman shall, at all times, maintain an office and telephone, for the transaction of business, in the District of Columbia.

(2) Records. Any surety authorized under these Rules shall keep an accurate record of each and every bond upon which the surety appears as surety in this Court, said record to be available for inspection upon demand by this Court, or any designated representative thereof, or any designated representative of any law enforcement agency of the District of Columbia; such record to include:

(i) The full name and address of the defendant for whom the bond is executed and the full name and address of the defendant's employer, if any;

(ii) The offense with which the defendant is charged;

(iii) The name of the court or officer authorizing the defendant's admission to bail;

(iv) The amount of the bond;

(v) The name of the person who called the surety, if other than the defendant;

(vi) The amount of the surety's charge for executing the bond;

(vii) The full name and address of the person to whom the surety presented the bill for the charge;

(viii) The full name and address of the person paying the charge; and

(ix) The manner of payment of the charge.

A separate like record shall be kept of all other bonds written by any surety so authorized, which shall likewise be available for inspection upon demand by this Court.

The records which the authorized surety is required to maintain shall be retained for a period of at least 3 years; the said records shall be submitted to the Clerk of this Court for examination and report at a reasonable time prior to the filing of an application for renewal.

(3) Obtaining release of the defendant. After the Court has fixed the amount of the bond, it shall be the duty of the surety who agrees to write the bond to obtain a release of the defendant from the Clerk.

(4) Continuing obligation. Any bond authorized by a judge of the Court or an official authorized to take bonds pursuant to paragraph (d)(2) of this Rule shall be a continuing bond and shall obligate the surety until final disposition of the charge by this Court or by the United States District Court for the District of Columbia, provided, however, that a surety may be relieved of the continuing obligation upon a proper showing made by written application. Any obligation of a surety may be appropriately reduced whenever a charge against a defendant is reduced or whenever 1 or more charges are dropped from the original charges.

(d) Duties of the Clerk and Marshal.

(1) Schedule of bonds and collateral security. From time to time a schedule shall be prepared by the Clerk of bonds and collateral security to be taken from persons charged with offenses cognizable in this Court for their appearance for trial or for further hearing. The bonds and collateral security provided in such schedule shall be subject to change in individual cases by any judge before whom a case may be pending.

(2) Substitute clerk. The judges of the Superior Court shall appoint officials of the Metropolitan Police Department of the District of Columbia to act as clerks of this Court

with authority to take bonds or collateral security in accordance with the schedule prepared and adopted by the Court from persons charged with any offense cognizable in the Court at all times when the Clerk's Office is not open and its clerks accessible. Officials so appointed shall have such other authority and be subject to the limitations provided by *D.C. Code § 23-1110*.

(3) Release of defendant by Clerk. After the Court has fixed the amount of a bond, any release of the defendant given by the Clerk to the surety to write the bond shall direct the Marshal to bring the defendant to the Clerk. After the Clerk has determined that the surety is authorized to execute the bond, the bond shall be executed by both the defendant and surety, and the Marshal shall then release the defendant into the custody of the surety.

(4) Custody on increased charges or conditions. The defendant shall be taken into custody and a new bond shall be required whenever (i) the amount of the bond is increased, (ii) the charge is increased from a misdemeanor to a felony, or (iii) 1 or more additional charges are added to the original charge.

(5) Limit on acceptance of obligation. No single bond or recognizance shall be taken or approved which obligates the surety in an amount exceeding the current assessed value of the surety's listed real estate.

(6) Liaison with District Court. It shall be the duty of the Clerk of this Court to maintain close liaison with the Clerk of the United States District Court for the District of Columbia on all matters relating to sureties and their operations.

(e) [Deleted].

(f) Corporate sureties.

(1) Terms and conditions. Bonds, undertakings or recognizances in criminal cases may be accepted from corporations authorized by Court order to engage in the business of acting as surety under the same terms and conditions as are now required by this Rule and practices in this Court for individuals.

(2) Exception. Corporate sureties holding authority from the Secretary of the Treasury to do business in the District of Columbia and having a process agent therein shall be excused from compliance with the provisions of paragraph (a)(2) applicable to corporations, provided their agents and employees holding power of attorney to act in a representative capacity for them in this Court shall have complied with paragraph (2)(d), (e) and (f).

(g) Private sureties. Any person proposing to go on bond without compensation for same shall satisfy the Clerk of the Court that (1) said person is of good moral character and standing in the community; (2) the real estate offered as bond is free of any mortgages, liens or encumbrances of any kind, is located within the District of Columbia, disclosing the nature and extent of the interest of anyone, other than the person in whose name the real estate is assessed, in any or all of the parcels so offered; and (3) shall exhibit a certification from the Assessor's Office of the District of Columbia, indicating the square and lot numbers, street address, current assessed value, and in whose name the property is assessed.

(h) Forfeiture of bail.

(1) Declaration. If there is a breach of condition of a bond, the Court shall declare a forfeiture of the bail.

(2) Setting aside. The Court may direct that a forfeiture be set aside, upon such conditions as the Court may impose, if it appears that justice does not require the enforcement of the forfeiture. No forfeiture may be set aside in the case of a defendant who has failed to appear except upon the approval of the judge who originally imposed the forfeiture.

(3) Enforcement. When a forfeiture has not been set aside, the Court shall on motion enter a judgment of default and execution may issue thereon. By entering into a bond the obligors submit to the jurisdiction of the Court and irrevocably appoint the Clerk of the Court as their agent upon whom any papers affecting their liability may be served. Their liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the Court prescribes may be served on the Clerk of the Court, who shall forthwith mail copies to the obligors at their last known addresses.

(4) Remission. After entry of such judgment, the Court may remit it in whole or in part under the conditions applying to the setting aside of forfeiture in subparagraph (2) of this section.

(i) Exoneration. When the condition of the bond has been satisfied or the forfeiture thereof has been set aside or permitted the Court shall exonerate the obligors and release any bail. A surety may be exonerated by a deposit of cash in the amount of the bond or by a timely surrender of the defendant into custody.