



Ohio Revised Code

Section 3905.92 Requirements for acceptance of collateral security or other indemnity.

Effective: October 9, 2001

Legislation: House Bill 730 - 123rd General Assembly

(A) A surety bail bond agent that accepts collateral security or other indemnity shall comply with all of the following requirements:

(1) The collateral security or other indemnity shall be reasonable in relation to the amount of the bond.

(2) The collateral security or other indemnity shall not be used by the surety bail bond agent for personal benefit or gain and shall be returned in the same condition as received.

(3) Acceptable forms of collateral security or indemnity include cash or its equivalent, a promissory note, an indemnity agreement, a real property mortgage in the name of the surety, and any filing under Chapter 1309. of the Revised Code. If the surety bail bond agent accepts on a bond collateral security in excess of fifty thousand dollars in cash, the cash amount shall be made payable to the surety in the form of a cashier's check, United States postal money order, certificate of deposit, or wire transfer.

(4) The surety bail bond agent shall provide to the person giving the collateral security or other indemnity, a written, numbered receipt that describes in a detailed manner the collateral security or other indemnity received, along with copies of any documents rendered.

(5) The collateral security or other indemnity shall be received and held in the surety's name by the surety bail bond agent in a fiduciary capacity and, prior to any forfeiture of bail, shall be kept separate and apart from any other funds or assets of the surety bail bond agent. However, when collateral security in excess of fifty thousand dollars in cash or its equivalent is received on a bond, the surety bail bond agent promptly shall forward the entire amount to the surety or managing general agent.



(B) Collateral security may be placed in an interest-bearing account in a federally insured bank or savings and loan association in this state, to accrue to the benefit of the person giving the collateral security. The surety bail bond agent, surety, or managing general agent shall not make any pecuniary gain on the collateral security deposited.

(C)(1) The surety is liable for all collateral security or other indemnity accepted by a surety bail bond agent. If, upon final termination of liability on a bond, the surety bail bond agent or managing general agent fails to return the collateral security to the person that gave it, the surety shall return the actual collateral to that person or, in the event that the surety cannot locate the collateral, shall pay the person in accordance with this section.

(2) A surety's liability as described in division (C)(1) of this section survives the termination of the surety bail bond agent's appointment, with respect to those bonds that were executed by the surety bail bond agent prior to the termination of the appointment.

(D) If a forfeiture occurs, the surety bail bond agent or surety shall give the principal and the person that gave the collateral security ten days' written notice of intent to convert the collateral deposit into cash to satisfy the forfeiture. The notice shall be sent by certified mail, return receipt requested, to the last known address of the principal and the person that gave the collateral.

The surety bail bond agent or surety shall convert the collateral deposit into cash within a reasonable period of time and return that which is in excess of the face value of the bond minus the actual and reasonable expenses of converting the collateral into cash. In no event shall these expenses exceed ten per cent of the face value of the bond. However, upon motion and proof that the actual and reasonable expenses exceed ten per cent, the court may allow recovery of the full amount of the actual and reasonable expenses. If there is a remission of forfeiture that required the surety to pay the bond to the court, the surety shall pay to the person that gave the collateral the value of any collateral received for the bond minus the actual and reasonable expenses permitted to be recovered under this division.

(E) A surety bail bond agent or surety shall not solicit or accept a waiver of any of the provisions of this section, or enter into any agreement as to the value of the collateral.



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(F) No person shall fail to comply with this section.