

March 25, 2009

S 929. NO SET ASIDE OF BOND FORFEIT/ACTUAL NOTICE. Filed 3/25/09. *TO PROVIDE THAT A COURT MAY REFUSE TO SET ASIDE A BOND FORFEITURE ONLY IF, BEFORE EXECUTING THE BOND, THE SURETY OR BAIL AGENT HAD ACTUAL NOTICE OF A DEFENDANT'S FAILURE TO APPEAR ON TWO OR MORE PRIOR OCCASIONS IN THE CASE FOR WHICH THE BOND WAS EXECUTED.*

Amends GS 15A-544.5(f) to provide that if a surety or bail agent had actual knowledge before executing the bail bond that the defendant already failed to appear on two or more prior occasions in the case for which the bond was executed, no forfeiture of the bond may be set aside for any reason, except if, prior to the final judgment date, the surety or the bail agent provides documentation showing that all of the charges for which the defendant was bonded to appear were finally disposed by the court other than by the State taking a dismissal with leave or a dismissal due to inability to prosecute. Effective October 1, 2009, and applies to bail bonds executed on or after that date.

Intro. by Berger of Franklin.

GS 15A

May 11, 2009

S 929. NO SET ASIDE OF BOND FORFEIT/ ACTUAL NOTICE. Filed 3/25/09. Senate committee substitute makes the following changes to 1st edition. Amends GS 15A-544.5(d) to amend the requirements that apply to setting aside forfeitures and to clarify the sanctions that may be imposed in conjunction with motions to set aside forfeitures. Amends GS 15A-544.5(f) to clarify that setting aside forfeitures is prohibited in certain circumstances (was, no more than two forfeitures may be set aside). Provides that actual notice only occurs if two or more failures to appear are indicated on the defendant's release order by a judicial official; directs the judicial official to indicate on the release order when it is the defendant's second or subsequent failure to appear in the case for which the bond was executed. Deletes the exception providing criteria under which a forfeiture of a bond could be set aside. Provides that the amendments to GS 15A-544.5(d) become effective October 1, 2009, and apply to all motions to set aside a forfeiture filed on or after that date. Makes conforming changes to the title.

July 2, 2009

S 929. NO SET ASIDE OF BOND FORFEIT/ACTUAL NOTICE. Filed 3/25/09. House committee substitute makes the following changes to 2nd edition. Amends GS 15A-544.5(d)(8) to provide that sanctions awarded for failure to sign a motion to set aside or for failure to attach required documentation or attaching fraudulent documentation must be docketed by the clerk of superior court as a civil judgment as provided in GS 1-234. Makes clarifying changes to the title.

July 14, 2009

S 929. NO SET ASIDE OF BOND FORFEIT/ACTUAL NOTICE. Filed 3/25/09. House committee substitute makes the following changes to 3rd edition. Amends GS 15A-544.5(d) to specify that the clear proceeds of sanctions imposed as a result of failure to properly sign or document a motion to set aside or attachment of fraudulent information to the motion, are to be remitted by the clerk of superior court to county finance officers as provided in GS 115C-452 (providing for the apportionment and remittance of such funds to local school administrative units).

Amends GS 15A-544.5(b) to allow for set aside of forfeitures as provided in subsection (f) of GS 15A-544.5 as amended in this act.

Provides that Section 1 of this act, amending GS 15A-544.5(d), becomes effective January 1, 2010 (was, October 1, 2009) and applies to all motions to set aside filed on or after that date, and that Section 1.1 and Section 2 of this act also become effective on that date (was, October 1, 2009) and apply to bail bonds executed on or after that date.

August 18, 2009

SL 2009-437 (S 929). NO SET ASIDE OF BOND FORFEIT/ACTUAL NOTICE. AN ACT TO AMEND REQUIREMENTS APPLICABLE TO MOTIONS TO SET ASIDE BAIL BOND

FORFEITURES AND CLARIFY SANCTIONS THAT MAY BE IMPOSED IN CONJUNCTION WITH SUCH MOTIONS; AND TO PROVIDE THAT A COURT MAY NOT SET ASIDE A BAIL BOND FORFEITURE IF, BEFORE EXECUTING THE BOND, THE SURETY OR BAIL AGENT HAD ACTUAL NOTICE OF A DEFENDANT'S FAILURE TO APPEAR ON TWO OR MORE PRIOR OCCASIONS IN THE CASE FOR WHICH THE BOND WAS EXECUTED. Summarized in *Daily Bulletin* 3/25/09, 5/11/09, 7/2/09, and 7/14/09. Enacted August 7, 2009. Effective January 1, 2010.