

RULES OF THE CIRCUIT COURT OF COOK COUNTY

PART 9. BONDS – SURETIES

9.1 Definition

(a) Personal Surety - Any individual not licensed by the State of Illinois as a surety and not regularly engaged in the business of acting as surety or guarantor for the performance of an act of another.

(b) Civil Surety - Any company currently licensed as a surety under the Illinois Insurance Code, effective July 1, 1937, as amended (Ill. Rev. Stat. 1985, ch.73, par. 613 et seq.)[215 ILCS 5/1].

(c) Bond Certificates - A certificate acceptable in lieu of bail in traffic violations as authorized under the provisions of Article V of the Illinois Supreme Court Rules, effective January 1, 1968, as amended (Ill. Rev. Stat. 1985, ch. 110A, par. 501 et seq.)[Ill. Supreme Court Rule 501 et seq.].

(d) Guarantor - Any company or association currently authorized which issues and guarantees the payment of a judgment and costs upon the failure of a holder of a bond certificate to appear for trial pursuant to the orders of court.

[Adopted March 18, 1987, effective April 1, 1987.]

9.2 Authorization

(a) Type of Authorization

(i) Personal Sureties - Any individual shall be permitted to act as a personal surety in any case pending in the Circuit Court of Cook County only if authorized by the judge before whom the case is pending, after having executed and filed a schedule of property in the form approved by the judge. A copy of the schedule shall be served upon each interested party in the manner prescribed by Illinois Supreme Court Rule 11.

(ii) Civil Sureties - Any company currently licensed to act as a civil surety shall be permitted to act as surety in civil cases in the Circuit Court of Cook County only if authorized by the Chief Judge of the Court.

(iii) Guarantors - Bond Certificates - Any automobile club or association which has been in existence for a period of 18 months or more and has an actual bona-fide membership of 1500 or more, or any trade union, surety or insurance company shall be permitted to issue bond certificates to their members or assured and to act as guarantors on bond certificates so issued in the Circuit Court only if authorized by the Chief Judge of the Court.

(b) Period of Authorization - Authorization to act as a civil surety or guarantor shall be granted for a period of not to exceed 1 year.

(i) *Civil* - The authorization of civil sureties shall expire on the first day of July, next following the authorization.

(ii) *Guarantors* - The Authorization of guarantors shall expire on the first day of August, next following the authorization.

(c) Renewal of Authorization - A petition for renewal of authorization shall be filed in the same manner as an original petition for authorization.

(i) *Civil* - A petition for renewal of authorization for civil sureties shall be filed between April 15 and May 15.

(ii) *Guarantors* - A petition for renewal of authorization for guarantors shall be filed between July 1 and July 15.

No surety or guarantor under this rule shall be approved to renew the authorization to act as surety or guarantor unless the petitioner has been actively engaged in such capacity during the preceding year.

(d) Interim Authorization - Upon the filing of a petition, the court may grant the petitioner authorization to act as a surety or guarantor in the court, pending the determination of the petition.

[Amended, effective March 23, 2009.]

9.3 Petition for Authorization

(a) Contents of Petition - The applicant shall file a verified petition in duplicate, duly executed, stating that the petitioner has complied with all applicable laws and regulations and requesting authorization to act as surety or guarantor in the court. There shall be attached to the petition:

(i) In the case of sureties, a certificate of authorization to conduct surety business for the current year under the Illinois Insurance Code, attested by the director of the Department of Insurance of the State of Illinois; in the case of guarantors which are foreign corporations, a certificate of authority to transact business in Illinois under the Business Corporation Act of 1983, effective July 1, 1984, as amended (Ill. Rev. Stat. 1985, ch. 32, par. 13.05 et seq.)[805 ILCS 5/13.50].

(ii) Powers of attorney or certificates of authority, duly executed by the appointing officer, for all persons authorized to execute civil bonds for the petitioner in the court, accompanied by the signatures of said persons so authorized, in a form approved by the court.

(iii) Financial information consisting of:

A. A statement of assets, liabilities, and shareholder's equity certified by the petitioner as being a fair and accurate representation of the petitioner's financial condition as of the date of presentation. The statement shall be prepared as of the end of the petitioner's previous fiscal year or any subsequent date prior to the filing of the petition;

B. (1) The most recent regulatory filings by the petitioner; (2) financial statements of the petitioner audited, reviewed or compiled by independent auditors, along with the auditor reports; and (3) any narrative reports issued by independent auditors, or regulatory agencies within two years of the date of filing which reflect upon the petitioner's financial condition and its ability to act as surety or guarantor; and

C. Any additional information which the Chief Judge in his discretion deems necessary to approve petitioner's authorization to act as a civil surety in civil cases in the Circuit Court of Cook County.

(iv) A verified schedule of:

A. All unsatisfied judgments pending against the petitioner at the time of the filing of the petition upon bonds executed by the petitioner in any court in Illinois. The schedule shall state the title and number of the case, the amount and date of judgment entered.

B. All actions pending against the petitioner at the time of filing of the petition, upon bonds executed by the petitioner in any court in Illinois. The schedule shall state the title and number of the case, the names of the attorneys of record, the amount claimed, the nature of the claim and if contested, the reasons for contesting the claim.

C. All claims of liability, not the subject of any pending case, which have been made against the petitioner and are undischarged at the time of the filing of the petition, upon bonds executed by the petitioner in any court in Illinois. The schedule shall state the nature of the claim and the reasons for contesting the claim.

(b) Notice - Upon the filing of the petition, the chief judge, upon motion, shall set the petition for hearing at a specified time not earlier than 15 days after the date of filing. The petitioner shall then publish notice, not less than 15 days before the date set for hearing, in a newspaper of general circulation in the county, of the pendency of the petition, showing the date set for hearing.

(c) Objections - Any person may file written objections to the petition with the clerk of the court not less than 10 days before the date set for hearing, stating the reasons why the petition should not be allowed. The petitioner may file its answer to the objections not later than 5 days before the date set for hearing. A copy of the objections shall be served upon the petitioner, and a copy of the answer shall be served upon the objector, not later than the time of the respective filings.

(d) Hearing - The petitioner and the objector may introduce evidence at the hearing. If the court finds that the petitioner should be disallowed, the petitioner shall be disqualified from acting as surety in the court until further order of court. If, upon such hearing, the court finds that the

petitioner has complied with this rule and no good cause appears to the contrary, the court shall approve the authorization of the petitioner.

(e) Change of Agents - A corporation or association authorized to act as surety in the court may file a supplemental petition to change the persons authorized to execute bonds in its behalf.

[Amended, effective March 23, 2009.]

9.4 Fees and Deposits

(a) Registration Fee - All applicants desiring authorization under this rule shall pay a registration fee of \$100 at the time the petition for authorization is filed and an annual renewal fee of \$100 thereafter.

(b) Deposit-Bond Certificates - At the time the petition is approved, the petition seeking authority to issue or guarantee bond certificates shall deposit and maintain with the Clerk of the Circuit Court of Cook County, as follows:

(i) Truck Bond Certificates - A sum of \$50,000 of which \$10,000 shall be in cash and the balance in cash or securities approved by the chief judge; and/or

Auto Bond Certificates - A sum of \$25,000 of which \$5,000 shall be in cash and the balance in cash or securities approved by the chief judge; and

(ii) A written guarantee authorizing the payment of judgments for fines, penalties and costs, not to exceed \$160 for any single offense or \$500 for multiple offenses arising out of the same occurrence for auto bond certificates, or not to exceed \$500 for truck bond certificates, including ex-parte judgments for failure of any certificate holder to appear in court, and empowering the clerk to deduct each month from the deposit the sum of such judgments and costs. The guarantee shall also provide for the restoration of the required deposit within ten (10) days from the receipt of notice of such deductions and an authorization to the Chief Judge upon default, to order the sale of so many of the securities deposited as may be necessary to satisfy such judgments and costs.

(c) Refund - After the expiration of one year from the termination of its authority, a guarantor may petition the chief judge for a refund of its security deposit. Upon the payment of outstanding obligations of the guarantor, if any, the security deposit may be refunded.

[Amended, effective September 15, 2010.]

9.5 Records

(a) Sureties - The clerk of the court shall keep a daily record of all criminal and quasi-criminal bonds received, together with the name of the defendants, the sureties, if any, and the amount and date of the bonds. He shall also keep an account for each surety, which shall contain a record of the details of every bond and its disposition, and the record of outstanding bonds.

(b) Guarantors-Bond Certificates - The clerk of the court shall keep a daily record of all bond certificates forfeited and any judgments entered upon such forfeitures, together with the name of the defendants and the guarantors. The clerk shall furnish monthly to each guarantor, a record of all forfeitures and judgments entered against such guarantor.

[Adopted March 18, 1987, effective April 1, 1987.]

9.6 Duties and Restrictions of Sureties

(a) Receipts - A receipt for monies paid or for any security taken on any bond, shall be given by the surety to the person paying the same or making deposit of such security. The receipt for monies paid or security taken shall state the bond number, the title of the case, the branch or division of the court in which the principal is to appear, the date of appearance and an accurate description of the security taken. Upon the termination of liability on bonds in connection with which security was taken, the surety shall immediately surrender and return such security to the person having made such security deposit. Not later than 30 days after the termination of liability on bonds, in connection with which security was taken, the surety or guarantor shall file with the clerk a statement under oath, that he has returned the said security taken by him, together with a signed copy of the receipt evidencing the same.

(b) Soliciting -

(i) No individual or corporation authorized to act as surety or guarantor, or any agent of such person or corporation, shall solicit, directly or indirectly, the aid of any clerk, deputy clerk, bailiff or deputy bailiff of the court, or any police officer, in inducing any accused person to employ such individual or corporation authorized to act as surety or guarantor in any case within the jurisdiction of the court.

(ii) No individual or corporation authorized to act as surety or guarantor shall, by agent or otherwise, solicit business or advertise in any court building or in police stations.

(iii) No individual or any surety or any corporation authorized to act as surety or guarantor, or any agent of such individual or corporation shall, directly or indirectly, solicit legal business on behalf of any attorney or recommend any attorney or provide or offer to provide the services of any attorney to or for any person.

(iv) Any individual or agent of a corporation authorized by the court to act as surety in cases within the jurisdiction of the court offending against this rule, directly or indirectly, shall be subject to having the order authorizing him to act as surety revoked.

(c) Bond Certificates - No individual, corporation or association authorized to act on behalf of a guarantor on bond certificates shall sell or issue such bond certificates except to their members or assured, nor shall such individual, corporation or association charge or receive as compensation for such bond certificates a fee in excess of the maximum amount guaranteed by said bond certificates.

[Adopted March 18, 1987, effective April 1, 1987.]

9.7 Revocation or Suspension

(a) Summary Revocation or Suspension - The chief judge may revoke or suspend the said authority summarily without notice when in his opinion:

- (i) The deposit of a guarantor is impaired for any reason.
- (ii) Any judgments or bond forfeitures have remained unpaid after 60 days from the date of the effective date thereof. Notice of such summary revocation or suspension shall be given by mail at the address listed in the petition for authorization.

(b) Revocation or Suspension for Cause - The chief judge may, upon his own motion or upon request of any person, at any time enter a rule to show cause why the said authorization should not be revoked or suspended for any one or more of the following reasons:

- (i) For violation of any of the provisions of these rules.
- (ii) Upon conviction of any criminal offense under the laws of the State of Illinois or under the laws of the United States, or any other state.
- (iii) Upon being adjudged bankrupt or insolvent.
- (iv) For any interference or attempted interference with the administration of justice.
- (v) For any fraudulent, sharp or dishonest practices.
- (vi) For any material misstatement made in the application to secure an order to act as surety or guarantor.
- (vii) Failure to report any change of status as surety or guarantor since the date of authorization, which fact, if known, would have made such applicant ineligible for authorization to act as surety or guarantor under these rules.

(viii) Failure without justification to discharge an obligation without delay when liability became absolute or was determined by final judgment, or interposed a frivolous or unmeritorious defense upon a bond executed by the surety or guarantor.

The order entering the rule shall set a date for hearing upon the return of the rule. The clerk of the court shall furnish the sheriff of Cook County, Illinois, with a certified copy of the rule to be served upon the surety or guarantor together with a notice of the entry of the rule and of the date set for hearing upon the return of the rule. The return shall make answer to the charges contained in the rule in addition to such other information as may be required by said order. Upon hearing, the chief judge may enter an order revoking or suspending the authority of said surety or guarantor together with such other orders he may deem appropriate.

[Adopted March 18, 1987, effective April 1, 1987.]