

By: Creighton

H.B. No. 3451

A BILL TO BE ENTITLED

AN ACT

1
2 relating to procedures regarding the forfeiture and collection of
3 certain bail bonds.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article 22.04, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 22.04. REQUISITES OF CITATION. A citation shall be
8 sufficient if it be in the form provided for citations in other
9 civil cases in such court; provided, however, that a copy of the
10 judgment of forfeiture entered by the court, a copy of the forfeited
11 bond, and a copy of any power of attorney attached to the forfeited
12 bond shall be attached to the citation and the citation shall notify
13 the parties cited to appear and show cause why the judgment of
14 forfeiture should not be made final.

15 SECTION 2. Article 22.05, Code of Criminal Procedure, is
16 amended to read as follows:

17 Art. 22.05. CITATION AS IN OTHER CIVIL ACTIONS. If service
18 of citation is not waived under Article 22.03, a surety is entitled
19 to notice by service of citation, the length of time and in the
20 manner required in other civil actions; and the officer executing
21 the citation shall return the same as in other civil actions. It
22 shall not be necessary to give notice to the defendant unless he has
23 furnished his address on the bond, in which event notice to the
24 defendant shall be deposited in the United States mail directed to

1 the defendant at the address shown on the bond or the last known
2 address of the defendant.

3 SECTION 3. Article 22.06, Code of Criminal Procedure, is
4 amended to read as follows:

5 Art. 22.06. CITATION BY PUBLICATION. Where the surety is a
6 nonresident of the State, or where he is a transient person, or
7 where his residence is unknown, the district or county attorney
8 may, upon application in writing to the county clerk, stating the
9 facts, obtain a citation to be served by publication; and the same
10 shall be served by a publication and returned as in other civil
11 actions.

12 SECTION 4. Article 22.10, Code of Criminal Procedure, is
13 amended to read as follows:

14 Art. 22.10. SCIRE FACIAS DOCKET. When a forfeiture has been
15 declared upon a bond, the court or clerk shall docket the case upon
16 the scire facias or upon the civil docket, in the name of the State
17 of Texas, as plaintiff, and the principal and his sureties, if any,
18 as defendants; and, except as otherwise provided by this chapter,
19 the forfeiture proceedings are considered to be civil actions [~~had~~
20 ~~therein shall be~~] governed by the Texas Rules of Civil Procedure
21 [~~same rules governing other civil suits~~].

22 SECTION 5. Article 22.13(b), Code of Criminal Procedure, is
23 amended to read as follows:

24 (b) A surety exonerated under Subdivision 5, Subsection
25 (a), remains obligated to pay all filing fees and costs of court,
26 any reasonable and necessary costs incurred by a county to secure
27 the return of the principal, and interest accrued on the bond amount

1 from the date of the judgement nisi to the date of the principal's
2 incarceration.

3 SECTION 6. Article 22.14, Code of Criminal Procedure, is
4 amended to read as follows:

5 Art. 22.14. JUDGMENT FINAL. When, upon a trial of the
6 issues presented, no sufficient cause is shown for the failure of
7 the principal to appear, the judgment shall be made final against
8 him and his sureties, if any, for the amount in which they are
9 respectively bound and for all filing fees and costs of court; and
10 the same shall be collected by execution as in other civil actions.
11 Separate executions shall issue against each party for the amount
12 adjudged against him. The filing fees and costs of court shall be
13 equally divided between the sureties, if there be more than one.

14 SECTION 7. Article 22.16, Code of Criminal Procedure, is
15 amended to read as follows:

16 Art. 22.16. REMITTITUR AFTER FORFEITURE. (a) After
17 forfeiture of a bond and before entry of a final judgment, the court
18 shall, on written motion, remit to the surety the amount of the
19 bond, after deducting the filing fees, costs of court, ~~and~~ any
20 reasonable and necessary costs to the county for the return of the
21 principal, and the interest accrued on the bond amount as provided
22 by Subsection (c) if the principal is released on new bail in the
23 case or the case for which bond was given is dismissed.

24 (b) For other good cause shown and before the entry of a final
25 judgment against the bond, the court in its discretion may remit to
26 the surety all or part of the amount of the bond after deducting the
27 filing fees, costs of court, ~~and~~ any reasonable and necessary

1 costs to the county for the return of the principal, and the
2 interest accrued on the bond amount as provided by Subsection (c).

3 (c) For the purposes of this article, interest accrues on the
4 bond amount from the date of forfeiture in the same manner and at
5 the same rate as provided for the accrual of prejudgment interest in
6 other civil cases.

7 SECTION 8. Article 22.17, Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 22.17. SPECIAL BILL OF REVIEW. (a) Not later than two
10 years after the date a final judgment is entered in a bond
11 forfeiture proceeding, the surety on the bond may file with the
12 court a special bill of review. A special bill of review may
13 include a request, on equitable grounds, that the final judgment be
14 reformed and that all or part of the bond amount be remitted to the
15 surety, after deducting the filing fees, costs of court, [~~any~~]
16 reasonable costs to the county for the return of the principal, and
17 the interest accrued on the bond amount from the date of forfeiture.
18 The court in its discretion may grant or deny the bill in whole or in
19 part.

20 (b) For the purposes of this article, interest accrues on the
21 bond amount from the date of:

22 (1) forfeiture to the date of final judgment in the same
23 manner and at the same rate as provided for the accrual of
24 prejudgment interest in other civil cases; and

25 (2) final judgment to the date of the order for
26 remittitur at the same rate as provided for the accrual of
27 postjudgment interest in other civil cases.

1 SECTION 9. Article 103.0031(h), Code of Criminal Procedure,
2 is repealed.

3 SECTION 10. The change in law made by this Act in amending
4 Chapter 22, Code of Criminal Procedure, and in repealing Article
5 103.0031(h), Code of Criminal Procedure, applies only to a bail
6 bond that is executed on or after the effective date of this Act. A
7 bail bond executed before the effective date of this Act is governed
8 by the law in effect when the bail bond was executed, and the former
9 law is continued in effect for that purpose.

10 SECTION 11. This Act takes effect September 1, 2009.