

§1071. Sureties to make statement of property

1. Statement by surety. Any person who offers to act as surety in the Superior Court for any defendant in a criminal prosecution, whether or not the defendant is an appellant from the finding of a Judge of the District Court, is to be admitted to bail to await the action of the grand jury, or is arrested in vacation on a warrant issued on an indictment pending in the Superior Court, may be required to file with the judicial officer a written statement signed and sworn to by the surety describing all real estate owned by the surety within the State with sufficient accuracy to identify it.

A. The statement must provide in detail all encumbrances and the value of the land. The value of the land must be based on the judgment of the surety. [PL 1997, c. 543, §15 (AMD).]

B. The certificate must remain on file with the original papers in the case and a certified copy must be transmitted by the judicial officer taking the bail to the clerk of court before which the defendant is to appear. [PL 1997, c. 543, §15 (AMD).]

C. Upon motion to the court and notice to the defendant, the defendant shall produce and the State has the right to examine all evidence of ownership, valuation and all encumbrances on the land. [PL 1997, c. 543, §15 (AMD).]

[PL 1997, c. 543, §15 (AMD).]

2. Bail lien required. Any person who offers real estate as surety for the appearance before a court of a defendant charged with murder or a Class A, Class B or Class C crime must file a bail lien with the register of deeds in the county where the real estate lies.

A. If the defendant is to be bailed prior to appearance in a court for the first time, the person offering the real estate shall file with that court a copy of the lien attested by the register of deeds, stating the date of recording and the book and page number at which the lien is recorded, on the next business day after which the real estate is offered.

(1) If a defendant is released from custody, prior to the defendant's first appearance in court, upon a person offering real estate as surety and that person fails to file with the court a duly attested copy of the lien required by this paragraph within the prescribed time limit, the defendant may be taken into custody without the issuance of further process and shall be held as though the surety had not offered real estate as surety. [PL 1987, c. 758, §20 (NEW).]

B. If the defendant is bailed after having appeared in court for the first time, the defendant shall not be released from custody until the person offering real estate has filed with the court, with which the bail is posted, a copy of the lien attested by the register of deeds, stating the date of recording and the book and page number at which the lien is recorded. [PL 1987, c. 758, §20 (NEW).]

C. The person filing the lien is responsible for the fee to be paid to the register of deeds for receiving, recording and indexing the bail lien and for discharge of the bail lien as provided in Title 33, chapter 11, subchapter IV. [PL 1987, c. 758, §20 (NEW).]

D. A bail lien is not required if bail is posted through a nonprofit bail assistance project. [PL 1987, c. 758, §20 (NEW).]

[PL 1987, c. 758, §20 (NEW).]

3. Limitation on real estate. As used in this chapter, real estate is limited to real property located in the State.

[PL 1987, c. 758, §20 (NEW).]

SECTION HISTORY

PL 1987, c. 758, §20 (NEW). PL 1987, c. 870, §8 (AMD). PL 1989, c. 147, §4 (AMD). PL 1997, c. 543, §15 (AMD).

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