

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

CHAPTER 26

BONDS

600.2601 Bonds; form; defect; amendment; new bond.

Sec. 2601. (1) Whenever a bond is required by law to be given by any person in order to entitle him to any right or privilege conferred by law or to commence any proceeding, it is not necessary that the bond conform in all respects to the form prescribed by the statute. It is sufficient if it substantially conforms to the form prescribed by the statute and does not vary so as to prejudice the rights of the party to whom or for whose benefit the bond is given.

(2) Whenever a bond defective in any respect has been or is given, the court, officer, or body that would be authorized to receive the bond or to entertain any proceeding in consequence of the bond if it were perfect may amend the bond in any respect upon the application of the obligors of the bond or may allow a new bond bearing the date at which the earlier bond was required to be given to be substituted in the place of the defective bond upon the application of the person required to give the bond. The new bond shall then be deemed valid from the date of the execution of the earlier bond. When application is made to amend, the court, officer, or body is not limited to the particular amendment applied for but has power to amend the bond in any respect so as to make the defective bond meet the requirements that existed at the time it was given. When a new bond is allowed, it shall be substantially the same as might have been demanded when the defective bond was given.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2605 Stay of proceedings without bond; conditions.

Sec. 2605. If the party applying for a stay of proceedings is unable to give a stay bond by reason of poverty, the judge may, upon due proof of inability for such reason, grant such stay without requiring such bond upon such conditions and for such reasonable time as the judge may determine.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2607 Stay pending appeal of judgment; amount of bond; limitation; rescission of limitation.

Sec. 2607. (1) The amount of a bond issued to stay execution on a judgment while an appeal is pending shall be determined according to the applicable Michigan court rules and statutory provisions. The bond shall not exceed \$25,000,000.00 regardless of the amount of the judgment. The maximum amount allowed for a bond under this subsection shall be adjusted on January 1 following the fifth year after the effective date of the amendatory act that added this section and on January 1 every 5 years after that adjustment by an amount determined by the state treasurer to reflect the annual aggregate percentage change in the Detroit consumer price index since the previous adjustment. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor and as certified by the state treasurer.

(2) If the appellee proves by a preponderance of the evidence that the party for whom the bond to stay execution has been limited is purposefully dissipating or diverting assets outside of the ordinary course of business for the purpose of avoiding ultimate payment of the judgment, the court shall rescind the limitation granted under subsection (1).

History: Add. 2002, Act 265, Eff. Jan. 1, 2003.

Compiler's note: Enacting section 1 of Act 265 of 2002 provides:

"Enacting section 1. This amendatory act takes effect January 1, 2003 and applies to an appeal filed on or after that date."

600.2611 Bond not required of state or municipal corporation; appeal.

Sec. 2611. In any suit or proceeding in which the state, or any state officer duly authorized for that purpose, or any corporate body in charge of any state institution, or any municipal corporation, is a party, no bond shall be required to be given by any such party as a prerequisite to the taking of an appeal, or the making of an order staying proceedings.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2615 Bond not required of state or municipal corporation; process.

Sec. 2615. No bond, obligation, or security may be required of the state of Michigan, or of any of its departments, institutions or subdivisions in any action instituted by or in which the state of Michigan or any of

its departments, institutions or subdivisions is a party, or for the issuance of any warrant or levying of any execution on behalf of said parties.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2621 Single corporate surety; sufficiency.

Sec. 2621. Unless otherwise expressly provided, a statute requiring a bond with 2 sureties on the bond may be satisfied by having, as surety on the bond, a single corporate surety authorized to transact such business in this state.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2625 Oath to sureties or bail.

Sec. 2625. Whenever any officer is authorized to take any sureties or bail, he is authorized to administer an oath to every person who is offered as such bail or surety, to ascertain his sufficiency.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2631 Cash or securities in lieu of bail or bond; deposit; receipts; discharge; interest; substitution.

Sec. 2631. In any civil cause, action, proceeding or matter before any court, board or commission in this state or upon appeal from any action of any such court, board or commission, in any civil cause, action, proceeding or matter where bond or bail of any character is required or permitted for any purpose, it shall be lawful for the party or parties required or permitted to furnish such bail or bond to deposit, in lieu thereof, in the same manner herein provided for, cash, satisfactory municipal bonds negotiable by delivery, a certified check or certified checks on any state or national bank within this country payable to the officer with whom such check is filed, or obligation of the United States government negotiable by delivery, equal in amount to the amount of the bond or bail so required or permitted.

(1) Any person, firm or corporation desiring to avail himself of the provisions of this section shall deposit or cause to be deposited such cash or securities with the county, city, village or township treasurer of county, city, village or township within which the bond or bail is to be furnished or, in any case, with the state treasurer.

(2) Such treasurer, upon tender to him, shall accept such cash or securities and shall deliver to the depositor a duplicate receipt reciting the fact of such deposit.

(3) If such bond or bail is required after the office hours of any such treasurer with whom it is desired to file such cash or securities, the deposit may be made with the chief clerk of such court, board or commission or with the sheriff of the county or the deputy in charge of the county jail or the sheriff's office, who shall accept the same, giving duplicate receipts therefor, and cause such security to be delivered to the proper treasurer as above provided for within 48 hours thereafter.

(4) The filing of 1 of such duplicate receipts with the court, board or commission with which such bond or bail is required or permitted to be filed shall have the same effect as the furnishing of such bond or bail and shall be taken and accepted by such court, board or commission or by its chief clerk in lieu of such bond or bail.

(5) If such bond or security be discharged, an order to that effect shall be entered upon the records of the court, board or commission with a statement of the amount to be returned to the person making the deposit. Upon presentation to him of a copy of such order, duly certified by the chief clerk of the court, board or commission making the same, the proper treasurer shall pay to the person named therein or to his order the amount specified or shall return the securities as the case may be. If the bond or security be forfeited, an order to that effect shall be entered upon the records of the court, board or commission, and upon presentation to him of a copy of such order, certified by the chief clerk of the court, board or commission making the same, the treasurer shall make such disposition of the security as such order shall provide for. Money or securities deposited hereunder shall not be subject to garnishment. In case such cash or security is still in the hands of the clerk of such court, board or commission at the time the same is declared discharged or forfeited, the clerk shall make the same disposition of such security as the treasurer would be required to make in similar circumstances. Whenever the order of the court, board or commission requires or contemplates the same, the treasurer or clerk shall endorse to the proper party any certified check deposited with him as security.

(6) Any cash or securities received by any treasurer under the provisions of this section shall be deposited in a special fund or place of deposit subject to the order of the proper court, board or commission. Any interest accumulating upon such fund shall be paid into the general fund or corresponding fund of the state, county, city, village or township according to the nature of the case or in accordance with the order of the proper court, board or commission. When bonds or other securities are deposited the interest coupons shall

not be detached therefrom but shall follow the disposition of the securities.

(7) Any person, firm or corporation, availing themselves of the provisions of this section may, at any time, before forfeiture of the same, redeem any cash or securities so deposited by substituting the bond originally required or permitted.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2641 Change in parties; effect; new bonds.

Sec. 2641. No change in parties, made by order of court, shall impair any previous attachment of the estate of any person remaining a defendant in the action; nor impair bonds or recognizances of any person remaining a party either as against himself or his sureties; nor impair receipts to an officer for property attached; and, when parties are changed, the court may order new bonds if such new bonds are deemed necessary.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2645 Liability of officer if sureties insufficient; recovery of penalty by state or county.

Sec. 2645. (1) If on the return of an execution, duly issued upon any judgment obtained on a bond, it appears that the sureties taken therein were insufficient at the time of taking, and that the officer receiving them had reasonable ground to doubt their sufficiency, or failed to comply with the rules of the supreme court in receiving the bond, the officer is liable to the party aggrieved for the amount of the judgment recovered by him, and for his costs and expenses in such suit.

(2) If such suit was brought by the attorney general or a prosecuting attorney, an action may in like manner be brought by them, in the name of the people of this state, for the amount of the judgment so recovered. The penalty recovered shall be paid into the treasury of the county in which the bond was taken, to the credit of the general fund.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2651 Joint defendants; appeal bond; judgment against sureties.

Sec. 2651. If the defendants, or any 2 or more of them, have taken any cause where they are joint defendants by appeal to any court, and have filed a bond on appeal and on the trial or hearing in the higher court, a verdict, finding, opinion or judgment is rendered for 1 or more of such defendants so appealing, the surety or sureties on such appeal bond shall not be released from his or their liability on such bond by reason of such action, but judgment may be entered against said surety or sureties as well as against the defendant or defendants held liable.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2655 Security for costs; judgment against surety.

Sec. 2655. Whenever any person becomes security for costs for another, in any court in this state, whether such security is required by law to be given, or is required by order of the court, in case the opposite party in any such action recovers final judgment for costs against the principal, thereupon judgment or decree may immediately be entered, as well against such surety as against such principal, and execution may issue against such surety, in the same manner as if he had been himself a party to such suit.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2661 Actions on probate bonds.

Sec. 2661. All actions may be commenced in this state by order of a probate court, upon any bond required by law to be filed with such court.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2665 Attorney not to post bond; probate fiduciary.

Sec. 2665. No practicing attorney or counselor shall become a surety or post bond for any client in criminal or civil matters. This section shall not apply to any bond of \$100.00 or less required to be filed by a fiduciary in the probate court or the family division of circuit court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 16, Eff. Aug. 28, 1964;—Am. 1996, Act 388, Eff. Jan. 1, 1998.