

Hawaii Bail Bonds Laws

1. Applicable Statutes.

*** Hawaii's statutes currently do not contain comprehensive regulations for bail bond recovery or bail enforcement agents, though some provisions exist regarding forfeiture. ***

A. HRS § 804-51 HAWAII BAIL REVISED STATUTES ANNOTATED DIVISION 5. CRIMES AND CRIMINAL PROCEEDINGS TITLE 38. PROCEDURAL AND SUPPLEMENTARY PROVISIONS CHAPTER 804. Hawaii Bail; Bond to Keep the Peace PART III. FORFEITURE.

B. HI ST §§ 804- 14, 41.

2. Licensing Requirements for Agents.

A. HAWAII BAIL REVISED STATUTES ANNOTATED DIVISION 2. BUSINESS TITLE 25. PROFESSIONS AND OCCUPATIONS CHAPTER 445. County Licenses PART VIII. SOLICITORS Surety, [Hawaii Bail Bonds](#) — Repealed

- (The statutes do not currently contain any licensing provisions for bail enforcement agents or bounty hunters, nor is there any pending legislation for such).

3. Notice of Forfeiture

A. HRS § 804-51 HAWAII REVISED STATUTES ANNOTATED DIVISION 5. CRIMES AND CRIMINAL PROCEEDINGS TITLE 38. PROCEDURAL AND SUPPLEMENTARY PROVISIONS CHAPTER 804. Hawaii Bail; Bond to Keep the Peace PART III. FORFEITURE § 804-51 Procedure.

- Whenever the court, in any criminal cause, forfeits any bond or recognizance given in a criminal cause:
 - the court shall immediately enter up judgment in favor of the State and against the principal or principals and surety or sureties on the bond, jointly and severally, for the full amount of the penalty thereof,
 - and shall cause execution to issue thereon immediately after the expiration of thirty days from the date that notice is given via certified mail, return receipt requested, to the surety or sureties on the bond, of the entry of the judgment in favor of the State,
 - unless before the expiration of thirty days from the date that notice is given to the surety or sureties on the bond of the entry of the judgment in favor of the State, a motion or application of the principal or principals, surety or sureties, or any of them, showing good cause why execution should not issue upon the judgment, is filed with the court.
- If the motion or application, after a hearing held thereon, is sustained, the court shall vacate the judgment of forfeiture and, if the principal surrenders

or is surrendered pursuant to sections 804-14 or 804-41 (***) See "Forfeiture Defenses" below (***)), return the bond or recognizance to the principal or surety, whoever shall have given it, less the amount of any cost, as established at the hearing, incurred by the State as a result of the non appearance of the principal or other event on the basis of which the court forfeited the bond or recognizance.

- If the motion or application, after a hearing held thereon, is overruled, execution shall forthwith issue and shall not be stayed unless the order overruling the motion or application is appealed from as in the case of a final judgment.

- This section shall be considered to be set forth in full in words and figures in, and to form a part of, and to be included in, each and every bond or recognizance given in a criminal cause, whether actually set forth in the bond or recognizance, or not.

D. Court decisions

- James Lindblad, Inc., 83 Haw. 118, 925 P.2d 288 (1996), reconsideration denied, 83 Haw. 408, 927 P.2d 416 (1996). The Surety's notice of appeal was timely and the court had appellate jurisdiction because the notice of appeal was filed within thirty days of "the appealable event". State v. Ranger Ins. Co. ex rel.

4. Allotted Time between Forfeiture Declaration and Payment Due Date.

- (See above, sub A, items 1-4)

5. Forfeiture Defenses.

A. (See above, #3, sub A, items 4-6)

B. HI ST § 804-14–S 804-14 Discharge of sureties.

- Those who may have become bail for anyone, may at any time discharge themselves, by surrendering him to the custody of any sheriff or chief of police or his authorized subordinate.

C. HI ST § 804-41– S 804-41 Discharge of surety.

- At any time before the breach of the condition of the bond, the surety may discharge oneself by surrendering the principal into the hands of any sheriff or the chief of police or the sheriff's or chief's authorized subordinate.

D. HRS § 657D-3 HAWAII REVISED STATUTES ANNOTATED

DIVISION 4. COURTS AND JUDICIAL PROCEEDINGS TITLE 36. CIVIL REMEDIES AND DEFENSES AND SPECIAL PROCEEDINGS [CHAPTER 657D]. CIVIL RELIEF FOR STATE MILITARY FORCES PART I.

GENERAL PROVISIONS (§ 657D-3) Protection of persons secondarily liable.

- Whenever by reason of the military service of a principal, the sureties of a criminal Hawaii bail bond are prevented from enforcing the attendance of their principal and performing their obligation, the court shall not enforce the provisions of the bond during the military service of that principal. The court, in accordance with principles of equity and justice, may discharge those sureties and exonerate the bail either during or after such service.

E. Court decisions

- State v. Camara, 81 Haw. 324, 916 P.2d 1225 (1996).
- In order for a surety to recover its bond, less costs, either of the following must be met: (1) the principle surrenders, which, includes both voluntary and involuntary surrender by the principal to law enforcement officials; or (2) the principal is surrendered by the surety to the appropriate authority.
- "Good cause why execution should not issue upon the judgment" encompasses a showing of a satisfactory reason for a defendant's failure to appear when required.
- "Good cause why execution should not issue upon the judgment" of forfeiture may be shown by the defendant surrendering or being surrendered prior to expiration of the thirty-day search period.
- State v. Taylor, 56 Haw. 203, 532 P.2d 663 (1975). Where defendant made her appearance before the adjournment of the court, an order for bail forfeiture would be set aside.

6. Remission.

- (No specific provisions exist in the HI statutes at this time in regard to "remission").

7. Bail Agent's Arrest Authority.

*** The following sections from the HI statutes imply that Hawaii Bail Enforcement Agents and Bounty Hunters have the authority to arrest principals by referring to their ability to "surrender" a principal into the hands of law enforcement. ***

A. HI ST § 804-14-S 804-14 Discharge of sureties.

- Those who may have become bail for anyone, may at any time discharge themselves, by surrendering him to the custody of any sheriff or chief of police or his authorized subordinate.

B. HI ST § 804-41– S 804-41 Discharge of surety.

- At any time before the breach of the condition of the bond, the surety may discharge oneself by surrendering the principal into the hands of any sheriff or the chief of police or the sheriff's or chief's authorized subordinate.

8. Other Noteworthy Provisions.

- N/A

9. Noteworthy State Appellate Decisions.

State v. Flores

88 Hawai'i 126, 962 P.2d 1008

Hawai'i App.

Aug 14, 1998

- Bail surety filed motion to set aside bond forfeiture ordered when bonded defendant fled before trial. The First Circuit Court denied motion, and bail surety appealed. The Intermediate Court of Appeals, Watanabe, J., held that surety was not entitled to relief from bond forfeiture after surety located defendant, but law enforcement officers in jurisdiction where the defendant was located allegedly refused to arrest defendant and return him because Hawai'i had not entered bench warrant information into Federal Bureau of Investigation's National Crime Information Center (NCIC) computer system.

Affirmed.

State v. Camara

81 Hawai'i 324, 916 P.2d 1225

Hawai'i

May 15, 1996

- Surety moved to set aside judgment of forfeiture of appearance bond. The First Circuit Court, City and County of Honolulu, denied motion, and surety appealed. The Supreme Court, Moon, C.J., held that: (1) surety's notice of appeal was timely, and (2) surety was entitled to return of its bond, less costs.

Vacated and remanded.

Ruth v. Fleming

2 Haw.App. 585, 637 P.2d 784

Hawai'i App.

Dec 15, 1981

- Hawaii Bail bondsman appealed from judgment of the District Court, First Circuit, Honolulu Division, Honolulu County, Kenneth W. Harada, J., denying indemnification on ground that the expenses incurred and claimed arose out of the bondsman's negligence. The Intermediate Court of Appeals, Padgett,

J., held that: (1) evidence supported finding that the bondsman had been negligent, and (2) the bondsman was not entitled to be indemnified against results of his own negligence, where the agreement did not contain any language providing for indemnity in such a case.

Affirmed.

10. Bounty Hunter Provisions.

- At this time, there appear to be no specific regulations for "Bounty Hunters" in the Hawaii bail statutes