**South Carolina General Assembly**

119th Session, 2011-2012

**H. 4572**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Rutherford

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Introduced in the House on January 11, 2012

Introduced in the Senate on March 28, 2012

Last Amended on March 27, 2012

Currently residing in the Senate Committee on **Banking and Insurance**

Summary: Surety bonds

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/11/2012 House Introduced and read first time ([House Journal‑page 16](file:///h:\hj%20archive\2012\01-11-12.docx))

1/11/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 16](file:///h:\hj%20archive\2012\01-11-12.docx))

3/21/2012 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 54](file:///h:\hj%20archive\2012\03-21-12.docx))

3/27/2012 House Amended ([House Journal‑page 35](file:///h:\hj%20archive\2012\03-27-12.docx))

3/27/2012 House Read second time ([House Journal‑page 35](file:///h:\hj%20archive\2012\03-27-12.docx))

3/27/2012 House Roll call Yeas‑99 Nays‑3 ([House Journal‑page 36](file:///h:\hj%20archive\2012\03-27-12.docx))

3/28/2012 House Read third time and sent to Senate ([House Journal‑page 19](file:///h:\hj%20archive\2012\03-28-12.docx))

3/28/2012 Senate Introduced and read first time ([Senate Journal‑page 10](file:///h:\sj%20archive\2012\03-28-12.docx))

3/28/2012 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 10](file:///h:\sj%20archive\2012\03-28-12.docx))

**VERSIONS OF THIS BILL**

[1/11/2012](file:///p:\pprever\2011-12\4572_20120111.docx)

[3/21/2012](file:///p:\pprever\2011-12\4572_20120321.docx)

[3/27/2012](file:///p:\pprever\2011-12\4572_20120327.docx)

~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

March 27, 2012

**H. 4572**

Introduced by Rep. Rutherford

S. Printed 3/27/12--H.

Read the first time January 11, 2012.

**A** **BILL**

TO AMEND SECTION 38‑53‑50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SURETY RELIEVED ON BOND AND SURRENDER OF A DEFENDANT, SO AS TO DELETE LANGUAGE PROVIDING A PROCEDURE THROUGH WHICH A SURETY MAY BE RELIEVED OF LIABILITY FOR A BAIL BOND UPON FILING OF AN AFFIDAVIT STATING CERTAIN INFORMATION WHEN THE DEFENDANT IS INCARCERATED BY THE SURETY OR A LAW ENFORCEMENT AGENCY AS A RESULT OF A BENCH WARRANT.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 38‑53‑50 of the 1976 Code, as last amended by Act 346 of 2008, is further amended to read:

“Section 38‑53‑50. (A) A surety desiring to be relieved on a bond for good cause shall file with the clerk of court a motion to be relieved on the bond. A copy of the motion must be served upon the defendant, his attorney, and the solicitor’s office. The court then shall schedule a hearing to determine if the surety should be relieved on the bond and notify all parties of the hearing date. At the time of the filing of the motion, a fee of twenty dollars must be paid to the clerk of court to be retained by the clerk for use in the operation of the clerk’s office. The fee will cover the cost of copies of the motion required by the surety.

(B) If the circumstances warrant immediate incarceration of the defendant to prevent imminent violation of one of the specific terms of the bail bond, or if the defendant has violated one of the specific terms of the bond, the surety may take the defendant to the appropriate detention facility for holding until the court orders that the surety be relieved. The surety, within three business days following recommitment, must file with the detention facility and the court an affidavit clocked in with the clerk of court on a form provided by the Division of Court Administration stating the facts to support the surrender of the defendant for good cause. Nonpayment of fees alone is not sufficient cause to warrant immediate incarceration of the defendant. When the defendant and the affidavit are presented at the appropriate detention facility, the facility shall take custody of the defendant. When the affidavit is filed with the court, the surety also shall file a motion to be relieved on the bond pursuant to subsection (A). A surety who surrenders a defendant and files an affidavit which does not show good cause is subject to penalties imposed for perjury as provided for in Article 1, Chapter 9, Title 16.

(C) If the defendant is incarcerated by the surety or a law enforcement agency as a result of a bench warrant, the surety shall file an affidavit with the court stating that the defendant is incarcerated in the appropriate detention facility as a result of the bench warrant as well as the violation of the specific term or terms of the bail bond stated in the bench warrant. Once the affidavit pursuant to the provisions of this subsection has been filed, the surety is relieved of all liability on the bail bond by the court unless otherwise ordered by the circuit court.

~~(D)~~ After the surety has been relieved by order of the court, a new undertaking must be filed with the appropriate court in order to secure the subsequent release of the defendant. The undertaking must contain the same conditions included in the original bond unless the conditions have been changed by the court.”

SECTION 2. This act takes effect upon approval by the Governor.

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