

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 513

Short Title: Allow Fractional Deposit Bonds.

(Public)

Sponsors: Senator Daniel.

Referred to: Judiciary I.

March 20, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE DEFENDANTS TO SECURE AN APPEARANCE BOND  
3 BY DEPOSITING A FRACTION OF THE BOND AMOUNT.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 15A-531 reads as rewritten:

6 "§ 15A-531. Definitions.

7 As used in this Article the following definitions apply unless the context clearly  
8 requires otherwise:

9 (1) Bail Bond. – An undertaking by the principal to appear in court as  
10 required upon penalty of forfeiting bail to the State of North Carolina  
11 in a stated amount. Bail bonds include an unsecured appearance bond,  
12 an appearance bond secured by a cash deposit of the full amount of the  
13 bond, an appearance bond secured by a mortgage pursuant to G.S.  
14 109-25, and an appearance bond secured by at least one solvent surety.

15 (2) Obligor. – A principal or a surety on a bail bond.

16 (3) Principal. – A defendant or material witness obligated to appear in  
17 court as required upon penalty of forfeiting bail under a bail bond.

18 (4) Surety. – One who, with the principal, is liable for the amount of the  
19 bail bond upon forfeiture of bail.

20 (5) Fractional Deposit Bond. – An appearance bond secured by a deposit  
21 with the clerk in cash of a fraction of the amount of the bond in  
22 accordance with G.S. 15A-545. Upon performance of the conditions of  
23 release, ninety percent (90%) of the deposit must be returned to the  
24 defendant."

1           Sec. 2. G.S. 15A-534(a) reads as rewritten:

2 **"§ 15A-534. Procedure for determining conditions of pretrial release.**

3       (a) In determining conditions of pretrial release a judicial official must impose  
4 one of the following conditions:

5           (1) Release the defendant on his written promise to appear.

6           (2) Release the defendant upon his execution of an unsecured appearance  
7 bond in an amount specified by the judicial official.

8           (3) Place the defendant in the custody of a designated person or  
9 organization agreeing to supervise him.

10          (4) Require the execution of an appearance bond in a specified amount  
11 secured ~~by by: a cash deposit of the full amount of the bond, by: a~~  
12 ~~mortgage pursuant to G.S. 109-25, or by at least one solvent surety~~

13           a. A cash deposit of the full amount of the bond, or

14           b. A cash deposit of fifteen percent (15%) of the bond amount or  
15 twenty-five dollars (\$25.00), whichever is greater, pursuant to  
16 G.S. 15A-545, or

17           c. A mortgage pursuant to G.S. 109-25, or

18           d. At least one solvent surety.

19 If condition (3) is imposed, however, the defendant may elect to execute an appearance  
20 bond under subdivision (4). If a judicial official orders release of a defendant under  
21 conditions (1), (2), or (3), he may also place restrictions on the travel, associations,  
22 conduct, or place of abode of the defendant."

23       Sec. 3. Chapter 15A of the General Statutes is amended by adding a new  
24 section to read:

25 **"§ 15A-545. Procedure applicable to fractional deposit appearance bond.**

26       (a) Any person who has been determined indigent under Article 36 of Chapter  
27 7A and is authorized to be released on a secured bond not exceeding five thousand  
28 dollars (\$5,000), or any person acting on his behalf, may secure the bond by depositing  
29 with the clerk in cash an amount equal to fifteen percent (15%) of the amount of the  
30 bond or twenty-five dollars (\$25.00), whichever is greater, upon the execution of the  
31 bond by the principal. If the deposit is made by a person other than the principal, the  
32 name and address of the depositor must appear on the bond.

33       (b) Upon deposit, the principal must be released from custody subject to the  
34 conditions of the bond.

35       (c) If the amount of the bond is increased, the clerk must collect from the  
36 principal or deposit the amount necessary to maintain the deposit at the amount required  
37 by this section. If the amount of bond is reduced, the clerk must remit to the depositor  
38 the excess on deposit above the amount required under this section.

39       (d) Upon performance of the conditions of release, the clerk must return to the  
40 depositor ninety percent (90%) of the amount deposited and retain ten percent (10%) as  
41 a service charge. If costs have been assessed or a fine imposed, or both, and the deposit  
42 was made by the principal, the clerk must deduct those amounts from the amount to be  
43 returned to the principal. The amount deducted must be first applied to the payment of

1 costs assessed pursuant to G.S. 7A-304, and the remaining amount must be applied to  
2 the payment of the fine.

3 (e) If the conditions of release are not met, the principal becomes liable for the  
4 full amount of the bond and the provisions of G.S. 15A-544 apply.

5 (f) The ten percent (10%) service charge withheld by the clerk must be remitted  
6 to the State Treasurer for support of the General Court of Justice."

7 Sec. 4. This act shall become effective October 1, 1989.