

### Bail 31-3-2 Failure to appear; forfeiture of bail bonds.

- Whenever a person fails to appear at the time and place fixed by the terms of his bail bond, the court may declare a forfeiture of the bail. If the court declares a forfeiture, it shall:

1. Declare such forfeiture at the time of nonappearance;

2. Give written notice thereof to the surety within four working days of declaration; and

3. Issue a bench warrant for the person's arrest.

- When a forfeiture has not been set aside, the court shall on motion enter a judgment of default, and execution may issue thereon. By entering into a bail bond, the obligors submit to the jurisdiction of the court and irrevocably appoint the clerk of the court as their agent upon whom papers affecting their liability may be served. Liability of the surety may be enforced on motion without the necessity of an independent action.
- Notice of the motion to enter a judgment of default may be served pursuant to the rules of criminal procedure or may be served on the clerk of the court, who shall forthwith mail copies to the obligors at their last known address. The notice shall require the sureties to appear on or before a given date and show cause why judgment shall not be entered against them for the amount of the bail bond or recognizance. If good cause is not shown, the court may then enter judgment against the obligors on the recognizance, for such sum as it sees fit, not exceeding the penalty fixed by the bail bond or recognizance.
- If any amount remains unpaid ten days after entry of judgment, the court may issue execution for satisfaction of judgment.
- In the event that an obligor does not possess property in this state sufficient to satisfy a judgment against it for the whole or part of the penalty of a forfeited recognizance, the court entering judgment against the obligor on the recognizance shall send written notification to the superintendent of insurance. Immediately upon receipt of such written notification and pursuant to Section 46-6-4 NMSA 1978, the superintendent of insurance shall inform the obligor that unless the judgment is paid or an appeal, writ of error or supersedeas is taken within thirty days of the rendition of the judgment or decree, such obligor shall forfeit all right to do business in this state. If timely appeal, writ of error or supersedeas is not taken, the superintendent of insurance shall immediately take whatever steps necessary to revoke the right of the obligor to do business in this state.