

By: Representative Rogers (61st)

To: Judiciary A

HOUSE BILL NO. 714

1 AN ACT TO AMEND SECTION 99-5-25, MISSISSIPPI CODE OF 1972, TO  
2 REVISE CERTAIN PROVISIONS REGARDING FORFEITURE OF BOND; AND FOR  
3 RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 99-5-25, Mississippi Code of 1972, is  
6 amended as follows:

7 99-5-25. (1) (a) The purpose of bail is to guarantee  
8 appearance and a bail bond shall not be forfeited for any other  
9 reason.

10 (b) If a defendant in any criminal case, proceeding or  
11 matter fails to appear for any proceeding as ordered by the court,  
12 then the court shall order the bail forfeited and a judgment nisi  
13 and a bench warrant issued at the time of nonappearance. The  
14 clerk of the court shall notify the surety of the forfeiture by  
15 writ of scire facias, with a copy of the judgment nisi and bench  
16 warrant attached thereto, within ten (10) working days of such  
17 order of judgment nisi either by personal service or by certified  
18 mail. Failure of the clerk to provide the required notice within



19 ten (10) working days shall constitute prima facie evidence that  
20 the order should be set aside. Any felony warrant issued by a  
21 court for nonappearance shall be put on the National Crime  
22 Information Center (NCIC) until the defendant is returned to  
23 custody.

24 (c) The judgment nisi shall be returnable for ninety  
25 (90) days from the date of issuance. If during such period the  
26 defendant appears before the court, or is arrested and  
27 surrendered, then the judgment nisi shall be set aside and a copy  
28 of the judgment that is set aside shall be served on the surety by  
29 personal service of certified mail. If the surety produces the  
30 defendant or provides to the court reasonable mitigating  
31 circumstances upon such showing, then the forfeiture shall not be  
32 made final. If the forfeiture is made final, a copy of the final  
33 judgment shall be served on the surety within ten (10) working  
34 days by either personal service or certified mail. Reasonable  
35 mitigating circumstances shall be that the defendant is  
36 incarcerated in another jurisdiction, that the defendant is  
37 hospitalized under a doctor's care, that the defendant is in a  
38 recognized drug rehabilitation program, that the defendant has  
39 been placed in a witness protection program and it shall be the  
40 duty of any such agency placing such defendant into a witness  
41 protection program to notify the court and the court to notify the  
42 surety, or any other reason justifiable to the court.



43           (d) Execution upon the final judgment shall be  
44 automatically stayed for ninety (90) days from the date of entry  
45 of the final judgment. If, at any time before execution of the  
46 final judgment, the defendant appears in court either voluntarily  
47 or in custody after surrender or arrest, the court shall on its  
48 own motion direct that forfeiture be set aside and the bond  
49 exonerated as of the date the defendant first appeared in court.  
50 A bail agent shall not be liable for any civil damages as a result  
51 of his actions while enforcing a court order or scire facias and  
52 final judgment if the bail agent acted in good faith in the  
53 exercise of his duties and such actions were within the scope of  
54 his authority. Bail agents shall not be liable for civil damages  
55 resulting from the court's failure to properly issue or serve the  
56 surety with scire facias, final judgment or a set aside order for  
57 scire facias and final judgment.

58           (2) If a final judgment is entered against a surety licensed  
59 by the Department of Insurance and has not been set aside after  
60 ninety (90) days, or later if such time is extended by the court  
61 issuing the judgment nisi, then the court shall order the  
62 department to revoke the authority of such surety to write bail  
63 bonds. The commissioner shall, upon notice of the court, notify  
64 said surety within five (5) working days of receipt of revocation.  
65 If after ten (10) working days of such notification the revocation  
66 order has not been set aside by the court, then the commissioner  
67 shall revoke the authority of the surety and all agents of the



68 surety and shall notify the sheriff of every county of such  
69 revocation. If the revocation is set aside with the prescribed  
70 ten (10) days, the department shall not penalize or fine the  
71 surety or its agent.

72 (3) If within eighteen (18) months of the date of the final  
73 forfeiture the defendant appears for court, is arrested or  
74 surrendered to the court, or if the defendant is found to be  
75 incarcerated in another jurisdiction and a hold order placed on  
76 the defendant, then the amount of bail, less reasonable  
77 extradition cost, excluding attorney fees, shall be refunded by  
78 the court upon application by the surety.

79 **SECTION 2.** This act shall take effect and be in force from  
80 and after July 1, 2013.

