

GETTING ARRESTED—APPLICATIONS

UNDERSTANDING BAIL AND BONDS

If you are arrested for a crime, the judge will usually set what is called “bail.” Bail is sometimes set, per a schedule, immediately after you are booked for a crime. For more serious crimes, bail may not be set until your arraignment, which is the court date where the charges are read against you and you enter your plea. Bail is the amount of money you are required to pay in order to be able to leave jail during the period between your arraignment and trial. In some cases the judge may deny you any bail, meaning that you will have to stay in jail to await your criminal trial. For example, individuals who commit particularly reprehensible crimes or who are considered to be a high flight risk may be denied bail. In most situations, you are not required to pay the full bail amount, but are instead allowed to post a portion of it, as a “bond.” The bond is your promise that you will show up for all required court appearances. There are many different ways in which bond can be posted. The following is a primer on some of those ways.

A NOTE ABOUT BAIL AGENTS

- Bail agents are a unique participant in criminal proceedings. Bail agents generally must have a special license to supply bail bonds and, in some cases, must also carry special insurance policies on their business.
- A bail agent’s duty is to assist a criminally accused party and their friends and family in attempting to obtain the release of the accused party. A bail agent must also assure the accused party’s attendance at any subsequent court appearances.
- Once a release is obtained, the bail agent should verify that the accused individual has actually attended all necessary court proceedings. If the accused fails to appear, the bail agent should try to help locate and return him or her for trial. To accomplish this, a bail agent may hire a bounty hunter to locate the accused party.
- A bail agent may need to be present in court, if required or requested, in order to provide information on the bail bond.

CASH BONDS

- **How does a cash bond work?** A cash bond requires the full bail amount and is not financed through a bail agent. The court will hold onto the full bail amount until your criminal case is concluded. At that point, the bail is returned to you.

- **Who can post a cash bond?** A cash bond can be posted by you, your family, or your friends.
- **What happens if I fail to appear in court?** The full bail amount will be forfeited to the court if you fail to appear for your trial. The court will then issue a warrant for your arrest.
- **Are there special requirements?** If you have been arrested on charges of drug trafficking, you must prove that your bail money is coming from non-drug revenue sources before it will be accepted by the court.

FEDERAL BONDS

- **When is a federal bond used?** A federal bond is required for crimes being tried in federal U.S. district courts.
- **How much is a federal bond?** There is no set schedule, or limit, on the amount of bail that may be set for a federal crime. Therefore, the amount of your federal bond will depend on the facts of your particular case and the attitude of the judge who sets your bail.
- **How does a federal bond work?** A federal bond works like any other type of bail bond and serves to guarantee that you'll appear at all required court proceedings.
- **Who can provide a federal bond?** Unlike a cash bond, a federal bond may be provided by a bail agent.
- **What happens if I fail to appear in court?** If you fail to appear at any scheduled court proceeding where your presence is required, your bond will be forfeited to the federal court.

IMMIGRATION BONDS

- **When is an immigration bond used?** Immigration bonds are used solely in cases involving immigration issues.
- **Who receives an immigration bond?** An immigration bond is posted with the U.S. Immigration and Naturalization Service, instead of a traditional court.

- **Who can provide an immigration bond?** Not every bail agent can provide an immigration bond. Immigration bonds can only be provided by bail agents who carry a special insurance license.
- **What happens if I fail to appear in court?** As with “regular” bonds, if a person who has posted an immigration bond fails to appear in court, the bond will be immediately forfeited to the court.

PROPERTY BONDS

- **What is a property bond?** A property bond is a bond that posts the value of tangible property, such as real estate, in order to obtain a pre-trial release from jail. In some cases, the value of the property may need to be twice as high as the bail amount in order for a property bond to be accepted. A property bond is not allowed in every state.
- **How is a property bond obtained?** A property bond may be obtained from a bail agent. Depending on the law of the particular state, a court-appointed appraiser may need to assess the value of the property being used to post the bond. In other states, the value of the property as declared on tax documents may be considered adequate proof of its worth.
- **What happens if more than one person owns the property?** If the warranty deed or tax statement relating to the property indicates that there is more than one owner, then each owner must sign an agreement indicating that the property may be used to finance a bond.
- **What happens if I fail to appear in court?** When a property bond is issued, the court secures a lien against the property for the amount of the bail. If you fail to appear in court, a foreclosure action may be brought against the property. The court may then, after the foreclosure proceeding, collect on the bail amount that is owed. The court may also seek to recover, from the accused, the difference between any amount received in the foreclosure sale and the amount of the bail that was secured by the property.

SURETY BONDS

- **What is a surety bond?** A surety bond is, in essence, a series of contracts with a bail agent for the total bail amount.
- **How does a bail agent decide if I can have a surety bond?** Bail agents are allowed to interview both the accused person and the guarantor of the bond so that they may

make a determination as to whether the accused is likely to show up for court appearances. Depending on the opinion of the bail agent, the contracts for the surety bond can also contain conditions, such as the requirement that the accused obtain treatment or counseling once the release is secured. In this way, the bail agent can assume an important role in the accused's life.

- **How is surety bond written?** A surety bond is usually written for a premium percentage of the full bail amount. Collateral provided by the guarantor of the bond is then used to secure the remaining amount.
- **What happens if I fail to appear in court?** With a surety bond, the bond agent becomes liable to the court for the full bail amount in the event the accused fails to appear in court. Hence, the need for the bail agent to interview the accused and develop an opinion as to his or her flight risk.
- **How does a bail agent guarantee a surety bond?** Bail agents generally use the assets and property of their business to guarantee the surety bond to the court.