

MAINE STATE LEGISLATURE

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CHAPTER 511
BAIL IN CIVIL ACTION

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§ 5051. Bail bond returned with writ

When bail is taken on mesne process, it shall be by bond to the sheriff, if taken by him or his deputy, otherwise to the officer making the arrest, with condition that the defendant will appear and answer to the action and abide final judgment thereon and not avoid. The bond shall be returned with the writ and the clerk shall note on the writ that a bail bond is so filed.

R.S.1954, c. 115, § 1; 1961, c. 317, § 406.

§ 5052. Sureties

No officer is obligated to accept a bail bond unless signed by at least 2 sureties having sufficient property in the county in which the principal is arrested or held in custody, and if he takes a bail bond with only one surety, he is liable to the plaintiff for any deficiency thereof.

R.S.1954, c. 115, § 2.

§ 5053. Liability of obligors

A bail bond binds the obligors although signed by only one surety or when signed by 2 or more sureties when all or any of them had not sufficient property in the county.

R.S.1954, c. 115, § 3.

§ 5054. Surrender of principal

Any bail may, before the defendant's answer is required to be filed, exonerate himself from all liability by surrendering his principal to the jail in the county where the arrest was made or in the county where the writ is returnable and, within 15 days thereafter, leaving with the jailer an attested copy of the writ of process whereby the arrest was made, of the return indorsed thereon and of the bail bond; and notifying, in writing, the plaintiff or his attorney of the time and place of the commitment. The jailer shall receive him into custody as if committed by the officer making the arrest.

R.S.1954, c. 115, § 4; 1959, c. 317, § 244.

§ 5055. Names of bail entered on execution

If judgment is rendered against the principal in the action in which the bail is taken, the clerk of the court issuing the execution on the judgment shall insert, on the margin thereof, the names of the bail, their addition and places of abode, if inserted in the bail bond. If the debtor is committed to jail, the clerk shall note in like manner the jail to which he is committed.

R.S.1954, c. 115, § 5; 1963, c. 402, § 188.

§ 5056. Officer to notify bail; fees paid

The officer holding the execution shall, 15 days at least before its expiration, whether the debtor has given bail to the arresting officer or the jailer, notify each of the bail personally or by leaving a notice in writing, by him signed, at the bail's usual place of abode if in the officer's county, certifying that he cannot find the principal debtor or property wherewith to satisfy the execution, for which he may demand and receive of the bail the usual fee for service of a writ and for travel, and shall minute in said notice the amount of the fees which the bail shall pay in 20 days, unless one day at least before the execution is returnable the bail produce and deliver to the officer the principal debtor.

R.S.1954, c. 115, § 6.

§ 5057. Surrender of principal in court

If the bail do not surrender the principal, they may, at any time before final judgment in the original action, bring him into court where the action is pending and deliver him into the custody thereof and be thereby discharged.

R.S.1954, c. 115, § 7; 1963, c. 414, § 134.

§ 5058. Avoidance of principal; liability of bail

In case of the avoidance of the principal and return on the execution by the officer that he had had it in his hands at least 30 days before its expiration and that the principal was not found, his bail shall satisfy the judgment with interest thereon from the time when it was rendered, unless they discharge themselves by surrendering the principal before final judgment in an action against them as bail or by some other sufficient defense.

R.S.1954, c. 115, § 8; 1959, c. 317, § 245.

§ 5059. When action lies against bail

When the principal so avoids and his property cannot be found to satisfy the execution, the original creditor may have an action in his own name in the same court against the bail, to be sued out within one year from the rendition of judgment against the principal, and he need not declare on the bail bond but may merely allege that the defendants became bail in the original action.

R.S.1954, c. 115, § 9; 1959, c. 317, § 246.

§ 5060. Pleadings and defense by bail

The bail may plead, jointly or severally, any matter in defense or discharge.

R.S.1954, c. 115, § 10; 1959, c. 317, § 247.

§ 5061. Surrender of principal; exoneration of bail

The bail may surrender the principal in court before final judgment in the action against them, and on paying all the costs in that action, they shall be discharged. The principal shall be committed to jail to remain for 15 days. If the creditor does not within that time take him in execution, the sheriff shall discharge him on payment of the legal prison fees.

Any bail may, after the action is entered and before final judgment in the original action, exonerate himself from all liability by surrendering his principal to the jail in the county where the writ is returnable, and within 5 days thereafter leaving with the jailer an attested copy of the writ of process whereby the arrest was made, of the return indorsed thereon and of the bail bond, and notifying, in writing, the clerk of the court of the time and place of the commitment. The jailer shall receive him into custody as if committed by the officer making the arrest.

R.S.1954, c. 115, § 11; 1959, c. 317, § 248.

§ 5062. Remedy of bail against principal

Bail may have their remedy against their principal, by a civil action for all damages sustained by them by reason of their suretyship.

R.S.1954, c. 115, § 16; 1961, c. 317, § 408.