



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5305

Introduced 2/8/2012, by Rep. Luis Arroyo

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-7

from Ch. 38, par. 110-7

Amends the Code of Criminal Procedure of 1963. Provides that when the conditions of the bail bond have been performed and the accused has been discharged from all obligations in the cause the clerk of the court shall return to the accused or to the defendant's designee by an assignment executed at the time the bail amount is deposited, the bail which had been deposited after deducting 10% as bail bond costs and after deducting any fees, fines, costs, and assessments (rather than returning 90% of the sum which had been deposited and retaining as bail bond costs 10% of the amount deposited). Deletes provision that after a judgment for a fine and court costs or either is entered in the prosecution of a cause in which a bail deposit had been made, the balance of the deposit, after deduction of bail bond costs, shall be applied to the payment of the judgment. Effective January 1, 2013.

LRB097 18012 RLC 63235 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by changing Section 110-7 as follows:

6 (725 ILCS 5/110-7) (from Ch. 38, par. 110-7)

7 Sec. 110-7. Deposit of Bail Security.

8 (a) The person for whom bail has been set shall execute the  
9 bail bond and deposit with the clerk of the court before which  
10 the proceeding is pending a sum of money equal to 10% of the  
11 bail, but in no event shall such deposit be less than \$25. The  
12 clerk of the court shall provide a space on each form for a  
13 person other than the accused who has provided the money for  
14 the posting of bail to so indicate and a space signed by an  
15 accused who has executed the bail bond indicating whether a  
16 person other than the accused has provided the money for the  
17 posting of bail. The form shall also include a written notice  
18 to such person who has provided the defendant with the money  
19 for the posting of bail indicating that the bail may be used to  
20 pay costs, attorney's fees, fines, or other purposes authorized  
21 by the court and if the defendant fails to comply with the  
22 conditions of the bail bond, the court shall enter an order  
23 declaring the bail to be forfeited. The written notice must be:

1 (1) distinguishable from the surrounding text; (2) in bold type  
2 or underscored; and (3) in a type size at least 2 points larger  
3 than the surrounding type. When a person for whom bail has been  
4 set is charged with an offense under the Illinois Controlled  
5 Substances Act or the Methamphetamine Control and Community  
6 Protection Act which is a Class X felony, or making a terrorist  
7 threat in violation of Section 29D-20 of the Criminal Code of  
8 1961 or an attempt to commit the offense of making a terrorist  
9 threat, the court may require the defendant to deposit a sum  
10 equal to 100% of the bail. Where any person is charged with a  
11 forcible felony while free on bail and is the subject of  
12 proceedings under Section 109-3 of this Code the judge  
13 conducting the preliminary examination may also conduct a  
14 hearing upon the application of the State pursuant to the  
15 provisions of Section 110-6 of this Code to increase or revoke  
16 the bail for that person's prior alleged offense.

17 (b) Upon depositing this sum and any bond fee authorized by  
18 law, the person shall be released from custody subject to the  
19 conditions of the bail bond.

20 (c) Once bail has been given and a charge is pending or is  
21 thereafter filed in or transferred to a court of competent  
22 jurisdiction the latter court shall continue the original bail  
23 in that court subject to the provisions of Section 110-6 of  
24 this Code.

25 (d) After conviction the court may order that the original  
26 bail stand as bail pending appeal or deny, increase or reduce

1 bail subject to the provisions of Section 110-6.2.

2 (e) After the entry of an order by the trial court allowing  
3 or denying bail pending appeal either party may apply to the  
4 reviewing court having jurisdiction or to a justice thereof  
5 sitting in vacation for an order increasing or decreasing the  
6 amount of bail or allowing or denying bail pending appeal  
7 subject to the provisions of Section 110-6.2.

8 (f) When the conditions of the bail bond have been  
9 performed and the accused has been discharged from all  
10 obligations in the cause the clerk of the court shall return to  
11 the accused or to the defendant's designee by an assignment  
12 executed at the time the bail amount is deposited, the bail  
13 which had been deposited after deducting 10% as bail bond costs  
14 and after deducting any fees, fines, costs, and assessments  
15 ~~unless the court orders otherwise, 90% of the sum which had~~  
16 ~~been deposited and shall retain as bail bond costs 10% of the~~  
17 ~~amount deposited.~~ However, in no event shall the amount  
18 retained by the clerk as bail bond costs be less than \$5. Bail  
19 bond deposited by or on behalf of a defendant in one case may  
20 be used, in the court's discretion, to satisfy financial  
21 obligations of that same defendant incurred in a different case  
22 due to a fine, court costs, restitution or fees of the  
23 defendant's attorney of record. In counties with a population  
24 of 3,000,000 or more, the court shall not order bail bond  
25 deposited by or on behalf of a defendant in one case to be used  
26 to satisfy financial obligations of that same defendant in a

1 different case until the bail bond is first used to satisfy  
2 court costs and attorney's fees in the case in which the bail  
3 bond has been deposited and any other unpaid child support  
4 obligations are satisfied. In counties with a population of  
5 less than 3,000,000, the court shall not order bail bond  
6 deposited by or on behalf of a defendant in one case to be used  
7 to satisfy financial obligations of that same defendant in a  
8 different case until the bail bond is first used to satisfy  
9 court costs in the case in which the bail bond has been  
10 deposited.

11 At the request of the defendant the court may order the  
12 remainder ~~such 90%~~ of defendant's bail deposit after deducting  
13 10% as bail bond costs and after deducting any fees, fines,  
14 costs, and assessments, or whatever amount is repayable to  
15 defendant from such deposit, to be paid to defendant's attorney  
16 of record.

17 (g) If the accused does not comply with the conditions of  
18 the bail bond the court having jurisdiction shall enter an  
19 order declaring the bail to be forfeited. Notice of such order  
20 of forfeiture shall be mailed forthwith to the accused at his  
21 last known address. If the accused does not appear and  
22 surrender to the court having jurisdiction within 30 days from  
23 the date of the forfeiture or within such period satisfy the  
24 court that appearance and surrender by the accused is  
25 impossible and without his fault the court shall enter judgment  
26 for the State if the charge for which the bond was given was a

1 felony or misdemeanor, or if the charge was quasi-criminal or  
2 traffic, judgment for the political subdivision of the State  
3 which prosecuted the case, against the accused for the amount  
4 of the bail and costs of the court proceedings; however, in  
5 counties with a population of less than 3,000,000, instead of  
6 the court entering a judgment for the full amount of the bond  
7 the court may, in its discretion, enter judgment for the cash  
8 deposit on the bond, less costs, retain the deposit for further  
9 disposition or, if a cash bond was posted for failure to appear  
10 in a matter involving enforcement of child support or  
11 maintenance, the amount of the cash deposit on the bond, less  
12 outstanding costs, may be awarded to the person or entity to  
13 whom the child support or maintenance is due. The deposit made  
14 in accordance with paragraph (a) shall be applied to the  
15 payment of costs. If judgment is entered and any amount of such  
16 deposit remains after the payment of costs it shall be applied  
17 to payment of the judgment and transferred to the treasury of  
18 the municipal corporation wherein the bond was taken if the  
19 offense was a violation of any penal ordinance of a political  
20 subdivision of this State, or to the treasury of the county  
21 wherein the bond was taken if the offense was a violation of  
22 any penal statute of this State. The balance of the judgment  
23 may be enforced and collected in the same manner as a judgment  
24 entered in a civil action.

25 (h) (Blank). ~~After a judgment for a fine and court costs or~~  
26 ~~either is entered in the prosecution of a cause in which a~~

1 ~~deposit had been made in accordance with paragraph (a) the~~  
2 ~~balance of such deposit, after deduction of bail bond costs,~~  
3 ~~shall be applied to the payment of the judgment.~~

4 (i) When a court appearance is required for an alleged  
5 violation of the Criminal Code of 1961, the Illinois Vehicle  
6 Code, the Wildlife Code, the Fish and Aquatic Life Code, the  
7 Child Passenger Protection Act, or a comparable offense of a  
8 unit of local government as specified in Supreme Court Rule  
9 551, and if the accused does not appear in court on the date  
10 set for appearance or any date to which the case may be  
11 continued and the court issues an arrest warrant for the  
12 accused, based upon his or her failure to appear when having so  
13 previously been ordered to appear by the court, the accused  
14 upon his or her admission to bail shall be assessed by the  
15 court a fee of \$75. Payment of the fee shall be a condition of  
16 release unless otherwise ordered by the court. The fee shall be  
17 in addition to any bail that the accused is required to deposit  
18 for the offense for which the accused has been charged and may  
19 not be used for the payment of court costs or fines assessed  
20 for the offense. The clerk of the court shall remit \$70 of the  
21 fee assessed to the arresting agency who brings the offender in  
22 on the arrest warrant. If the Department of State Police is the  
23 arresting agency, \$70 of the fee assessed shall be remitted by  
24 the clerk of the court to the State Treasurer within one month  
25 after receipt for deposit into the State Police Operations  
26 Assistance Fund. The clerk of the court shall remit \$5 of the

1 fee assessed to the Circuit Court Clerk Operation and  
2 Administrative Fund as provided in Section 27.3d of the Clerks  
3 of Courts Act.

4 (Source: P.A. 96-1431, eff. 1-1-11; 97-175, eff. 1-1-12.)

5 Section 99. Effective date. This Act takes effect January  
6 1, 2013.