

**NOTE: The governor signed this measure on 3/15/2013.**

# An Act

HOUSE BILL 13-1053

BY REPRESENTATIVE(S) Lawrence, Coram, Gardner, Holbert, McLachlan, Mitsch Bush, Murray, Priola, Stephens, Szabo; also SENATOR(S) Hodge, Aguilar, Guzman.

CONCERNING THE REPEAL OF THE REQUIREMENT THAT CLERKS OF DISTRICT COURTS EXECUTE BONDS.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **repeal** 24-13-101, 24-13-102, 24-13-103, and 24-13-104.

**SECTION 2.** In Colorado Revised Statutes, **amend** 24-13-106 as follows:

**24-13-106. Parties interested may offer evidence.** All persons interested in the sufficiency of the official bond of any of the officers or persons named in ~~sections 24-13-104 and~~ SECTION 24-13-105 may appear at the prescribed time and place and shall be allowed to introduce any evidence lawfully tending to prove the removal, death, insolvency, or doubtful solvency of any surety on such official bond, and the officer or person interested, or any of his sureties, may also appear and introduce any evidence lawfully tending to establish the sufficiency of such official bond.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**SECTION 3.** In Colorado Revised Statutes, **amend** 24-13-107 as follows:

**24-13-107. Record of examination.** It is the duty of the ~~judge of said district court, county judge, and~~ board of county commissioners to enter upon their respective records, at the time prescribed in ~~sections 24-13-104 and~~ SECTION 24-13-105 for an examination, that an examination and inquiry into the sufficiency of the official bonds within their cognizance has been made and that they severally are deemed sufficient or insufficient as the facts may justify.

**SECTION 4.** In Colorado Revised Statutes, **amend** 24-13-108 as follows:

**24-13-108. Failure to file new bond - vacancy.** If any officer or person enumerated in ~~sections 24-13-104 and~~ SECTION 24-13-105 fails to file a new bond within the prescribed time when so required by an order entered of record requiring the filing of such new bond, the officer in default shall be deemed to have vacated his office, and the same steps shall be taken to fill such vacancy thus created as are taken to fill a vacancy by the death or resignation of such officer.

**SECTION 5.** In Colorado Revised Statutes, **amend** 24-13-109 as follows:

**24-13-109. Release of sureties - notice.** Any person who is the surety of any sheriff, coroner, county clerk and recorder, county treasurer, county surveyor, or other county officer shall have the power of releasing himself from further liability as such surety for such officer by filing in the office of the county clerk and recorder a notice that he is no longer willing to be surety for such officer. If the person so desiring to be released from such surety is suretyship for the county clerk and recorder, in addition to such filing of notice, he shall deliver a copy of the notice to the chairman of the board of county commissioners or, if he is absent, to some other member of said board. ~~Any person who is surety on the official bond of the clerk of the district court or master may be released by filing a notice in the office of said clerk of the district court in like manner and also delivering a copy thereof to the judge of said court.~~

**SECTION 6.** In Colorado Revised Statutes, **amend** 24-13-110 as follows:

**24-13-110. Duty of county clerk and recorder.** When any notice is filed with the county clerk and recorder, he shall immediately give notice thereof to such officer, who shall thereupon file other surety, to be approved by the board of county commissioners if the same is then in session or if a session thereof is commenced within ten days after notice has been given, but, if said board is not in session nor a session thereof is commenced within ten days thereafter, the officer within ten days shall file said bond with the county clerk and recorder, who shall judge of the sufficiency of said bond, subject to the decision and approval of said board of county commissioners at their first meeting thereafter. If such notice relates to the surety of the county clerk and recorder, it is the duty of the county commissioner to whom the copy of such notice is given immediately to require said clerk to file other surety to be approved by the board of county commissioners in like manner, but, if said board is not in session, the county commissioner to whom such notice may be given may approve such surety, subject to the decision and approval of the said board at its first meeting thereafter. ~~In case such notice relates to the surety of the clerk of the district court or any master, it is the duty of the judge of said court forthwith, upon receiving such notice, to require such master or clerk to file within ten days other surety, to be approved by him as in other cases.~~

**SECTION 7.** In Colorado Revised Statutes, **amend** 24-13-113 as follows:

**24-13-113. Failure to file bond.** It is the duty of such ~~master, clerk of the district court,~~ sheriff, coroner, county treasurer, county assessor, county clerk and recorder, or other officer, if he fails to give bond, to deliver over to his sureties forthwith all books, moneys, vouchers, papers, and every description of property whatever, pertaining to his office; and the sureties, at any time after failure to file bond, may maintain an action of replevin or other appropriate action to recover such property, money, or effects from their principal.

**SECTION 8.** In Colorado Revised Statutes, **amend** 24-13-114 as follows:

**24-13-114. Officers failing to deliver, not to act - penalty.** If any

officer designated in ~~sections 24-13-104~~ and SECTION 24-13-105 fails to deliver any money, property, or effects to his sureties or acts or attempts to act in the performance of the duties of his office after failing to give a new bond, he is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars.

**SECTION 9. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Mark Ferrandino  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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John P. Morse  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO