

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 13-0584.01 Jerry Barry x4341

HOUSE BILL 13-1053

HOUSE SPONSORSHIP

Lawrence,

SENATE SPONSORSHIP

Hodge,

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Current law requires clerks of district courts to execute surety bonds. The bill repeals this requirement and makes conforming amendments.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
2nd Reading Unamended
March 1, 2013

HOUSE
3rd Reading Unamended
February 6, 2013

HOUSE
2nd Reading Unamended
February 4, 2013

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal** 24-13-101,
3 24-13-102, 24-13-103, and 24-13-104.

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

6 **24-13-106. Parties interested may offer evidence.** All persons
7 interested in the sufficiency of the official bond of any of the officers or
8 persons named in ~~sections 24-13-104 and~~ SECTION 24-13-105 may appear
9 at the prescribed time and place and shall be allowed to introduce any
10 evidence lawfully tending to prove the removal, death, insolvency, or
11 doubtful solvency of any surety on such official bond, and the officer or
12 person interested, or any of his sureties, may also appear and introduce
13 any evidence lawfully tending to establish the sufficiency of such official
14 bond.

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

17 **24-13-107. Record of examination.** It is the duty of the judge of
18 ~~said district court, county judge, and~~ board of county commissioners to
19 enter upon their respective records, at the time prescribed in ~~sections~~
20 ~~24-13-104 and~~ SECTION 24-13-105 for an examination, that an
21 examination and inquiry into the sufficiency of the official bonds within
22 their cognizance has been made and that they severally are deemed
23 sufficient or insufficient as the facts may justify.

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

26 **24-13-108. Failure to file new bond - vacancy.** If any officer or
27 person enumerated in ~~sections 24-13-104 and~~ SECTION 24-13-105 fails to

1 file a new bond within the prescribed time when so required by an order
2 entered of record requiring the filing of such new bond, the officer in
3 default shall be deemed to have vacated his office, and the same steps
4 shall be taken to fill such vacancy thus created as are taken to fill a
5 vacancy by the death or resignation of such officer.

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

8 **24-13-109. Release of sureties - notice.** Any person who is the
9 surety of any sheriff, coroner, county clerk and recorder, county treasurer,
10 county surveyor, or other county officer shall have the power of releasing
11 himself from further liability as such surety for such officer by filing in
12 the office of the county clerk and recorder a notice that he is no longer
13 willing to be surety for such officer. If the person so desiring to be
14 released from such surety is suretyship for the county clerk and recorder,
15 in addition to such filing of notice, he shall deliver a copy of the notice to
16 the chairman of the board of county commissioners or, if he is absent, to
17 some other member of said board. ~~Any person who is surety on the~~
18 ~~official bond of the clerk of the district court or master may be released~~
19 ~~by filing a notice in the office of said clerk of the district court in like~~
20 ~~manner and also delivering a copy thereof to the judge of said court.~~

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

23 **24-13-110. Duty of county clerk and recorder.** When any
24 notice is filed with the county clerk and recorder, he shall immediately
25 give notice thereof to such officer, who shall thereupon file other surety,
26 to be approved by the board of county commissioners if the same is then
27 in session or if a session thereof is commenced within ten days after

1 notice has been given, but, if said board is not in session nor a session
2 thereof is commenced within ten days thereafter, the officer within ten
3 days shall file said bond with the county clerk and recorder, who shall
4 judge of the sufficiency of said bond, subject to the decision and approval
5 of said board of county commissioners at their first meeting thereafter. If
6 such notice relates to the surety of the county clerk and recorder, it is the
7 duty of the county commissioner to whom the copy of such notice is
8 given immediately to require said clerk to file other surety to be approved
9 by the board of county commissioners in like manner, but, if said board
10 is not in session, the county commissioner to whom such notice may be
11 given may approve such surety, subject to the decision and approval of
12 the said board at its first meeting thereafter. ~~In case such notice relates to
13 the surety of the clerk of the district court or any master, it is the duty of
14 the judge of said court forthwith, upon receiving such notice, to require
15 such master or clerk to file within ten days other surety, to be approved
16 by him as in other cases.~~

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

19 **24-13-113. Failure to file bond.** It is the duty of such ~~master,
20 clerk of the district court,~~ sheriff, coroner, county treasurer, county
21 assessor, county clerk and recorder, or other officer, if he fails to give
22 bond, to deliver over to his sureties forthwith all books, moneys,
23 vouchers, papers, and every description of property whatever, pertaining
24 to his office; and the sureties, at any time after failure to file bond, may
25 maintain an action of replevin or other appropriate action to recover such
26 property, money, or effects from their principal.

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

1 follows:

2 **24-13-114. Officers failing to deliver, not to act - penalty.** If
3 any officer designated in ~~sections 24-13-104 and~~ SECTION 24-13-105 fails
4 to deliver any money, property, or effects to his sureties or acts or
5 attempts to act in the performance of the duties of his office after failing
6 to give a new bond, he is guilty of a misdemeanor and, upon conviction
7 thereof, shall be punished by a fine of not less than five hundred dollars
8 nor more than five thousand dollars.

9 **SECTION 9. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.