

**431.535 Cash, stocks, bonds, or real estate as security for bail.**

- (1) Any person who has been permitted to execute a bail bond in accordance with KRS 431.520(3)(c) may secure such bond:
  - (a) By a deposit, with the clerk of the court, of cash, or stocks and bonds in which trustees are authorized to invest funds under the laws of this Commonwealth having an unencumbered market value of not less than the amount of the bail bond; or
  - (b) By real estate situated in this Commonwealth with unencumbered equity, not exempt and owned by the defendant or a surety or sureties having a fair market value at least double the amount of the bail bond.
- (2) If the bail bond is secured by stocks and bonds the defendant or the surety or sureties shall file with the bond a sworn schedule which shall be approved by the court and shall contain:
  - (a) A list of the stocks and bonds deposited describing each in sufficient detail that they may be identified;
  - (b) The present market value of each stock and bond;
  - (c) The total market value of the stocks and bonds listed;
  - (d) A statement that the affiant or affiants is the sole owner or owners thereof and that the stocks and bonds listed are not exempt from execution;
  - (e) A statement that such stocks and bonds have not previously been deposited or accepted as bail in this Commonwealth during the 12 months preceding the date of the bail bond; provided, however, this statement shall not be required of the defendant using his own property as security; or if the surety or sureties using their property as security are related to the defendant by consanguinity no further removed than first cousin; or if the surety or sureties is either a father-in-law, mother-in-law, son-in-law, or daughter-in-law of the defendant; and
  - (f) A statement that such stocks and bonds are security for the appearance of the defendant in accordance with the conditions of release imposed by the court.
- (3) If the bail bond is secured by real estate the defendant or surety or sureties shall file with the bond a sworn schedule which shall contain:
  - (a) A legal description of the real estate;
  - (b) A description of any and all encumbrances on the real estate including the amount of each and the holder thereof;
  - (c) The market value of the unencumbered equity owned by the affiant or affiants;
  - (d) A statement that the affiant is the sole owner, or in the case of jointly owned real estate, that affiants are the sole owners of such unencumbered equity and that it is not exempt from execution;
  - (e) A statement that the real estate has not previously been used or accepted as bail in this Commonwealth during the 12 months preceding the date of the bail bond; provided however this statement shall not be required of the defendant using his own property as security; or if the surety or sureties using

their property as security are related to the defendant by consanguinity no further removed than first cousin; or if the surety or sureties is either a father-in-law, mother-in-law, son-in-law or daughter-in-law of the defendant; and

- (f) A statement that the real estate is security for the appearance of the defendant in accordance with the conditions of release imposed by the court.
- (4) The sworn schedule shall constitute a material part of the bail bond. An affiant shall be subject to penalty of perjury if in the sworn schedule he makes a false statement which he does not believe to be true.
- (5) A certified copy of the bail bond and schedule of real estate accompanied by the necessary recording fee which shall be paid by the affiant or affiants shall be filed immediately by the clerk of the court requiring the bail bond in the office of the county clerk of the county in which the real estate is situated. The county clerk shall record such copies of said bail bonds and schedule and the Commonwealth shall have a lien upon such real estate from the date and time of such recordation. The instruments described herein shall be recorded in the miscellaneous encumbrances book provided by the county clerk.
- (6) If the conditions of release imposed by the court have been performed and the defendant has been discharged from all obligations in the action, the clerk of the court shall return to him or his sureties the deposit of any cash, stocks or bonds. If the bail bond has been secured by real estate, the clerk of the court requiring the bail bond shall forthwith notify in writing the county clerk of the county where the real estate is situated and the lien on the real estate shall be discharged and the release thereof recorded in the margin.

**Effective:** June 17, 1978

**History:** Amended 1978 Ky. Acts ch. 384, sec. 530, effective June 17, 1978. -- Created 1976 Ky. Acts ch. 2, sec. 6.