

PROPERTY BOND INFORMATION

The following information is intended to assist with filing an **Application for Real Property Equity Bond** with the Ventura Superior Court. (The procedure is governed by Penal Code Section 1298.)

Important Note: Before a deposit of equity in real property in lieu of money may be accepted as bail, the Court must find that the Equity in the property is equal to twice the amount of the required bail.

Specific Steps for Applying for and Posting a Real Property Bond:

1. Complete the following forms: (All documents must be originals and given to the court on specified forms.)

A. Application for Real Property Equity Bond and Declaration of Property Owner(s)

[VN190]

- Must include full legal description of property.
- Must include current market value of property.
- Must list all encumbrances and liens with supporting documentation.
- The amount of equity must be at least twice the bail amount.

B. Promissory Note [VN191]

- Promissory Note must be notarized.
- Promissory Note must be in the bail amount.

C. Order Approving Property Bond (Proposed) [VN192]

- Fill in only the case caption.
- Leave the remainder of the form blank.

2. Additional requirements and supporting documents:

A. Provide a notarized Deed of Trust (use All Purpose Acknowledgement [Civil Code §1189].)

- A California title company must serve as Trustee.
- The beneficiary is the County of Ventura.
- The court's address must be on the face of the Deed with a case number in the section entitled "and when recorded mail this . . . deed to".

B. Current appraisal (Attach to application)

- Must show fair market value dated within three months prior to the hearing.
- The appraiser must be certified by the State of California Office of Real Estate Appraisers.
- The Appraiser's license number must be on the appraisal.

C. Preliminary Title Report (Attach to application)

- Must be from a California title company.
- Must be dated within 30 days prior to the hearing.

- All property taxes must be paid.
- A Lot Book Report or Property Profile is NOT acceptable.

D. Proof of fire insurance on property (Attach to application)

- Fire insurance is required covering the replacement value of any structures or other improvements on the property. This requirement may be waived where the site value is more than ½ of the property value. If the property is a single family dwelling a copy of the declarations page of a homeowner's policy is acceptable proof of insurance. In the case of a condominium, the declarations page of the policy for the condominium complex will be required.

E. Request for Copy of Notice of Default and Sale

Complete form as to description of property. Form will be executed and notarized by court clerk.

F. Certificate of Acceptance (Proposed)

Complete the sections regarding the Deed of Trust. When the documents are filed the court clerk will sign and forward to the court for the hearing.

3. Provide All Documents to County Counsel

County counsel represents the County's interest in accepting real property in lieu of bail and may file an approval or objection to the posting of a real property bond. When all the above paperwork is completed, contact County Counsel at (805) 654-2581 for an appointment.

County Counsel will review the paperwork and will prepare, file and serve a Memorandum to the Court as to whether or not the County finds that the documentation is adequate to support a property bond.

4. Obtain a date, time and courtroom for a Bail Review hearing from the Clerk's Office in room 118

5. Proof of Personal Service

You must personally serve a completed copy of the application (including, Hearing Date, Time and Courtroom) and all supporting documents listed above, on the prosecutor (District Attorney) and the County Counsel at least 48 hours before submitting the originals to the court and you must attach a proof of service.

5. File with Clerk's Office in Room 118

Submit the application and supporting documents (Including proof of service) to the clerk's office at least one day prior to the hearing. The Clerk will then File the Application and/or receive the following documents:

- A. Application with supporting exhibits including Title Report
- B. Promissory Note
- C. Deed of Trust
- D. Request for Copy of Notice of Default and Sale
- E. Proposed Certificate of Acceptance
- F. Proposed Order

6. Hearing

At the hearing you must prove that the property has not been encumbered between the date of the Title Report and the Date of the hearing. The Court will decide the sufficiency of the proof upon any objection raised by the County or District Attorney.

If the property bond is approved, the Order will be signed. The Deed of Trust, Certificate of Acceptance and

Request for Copy of Notice of Default and Sale will be returned to you, along with a copy of the order for recording.

A second hearing date will be set by the court to confirm you have properly recorded the Deed of Trust, Certificate of Acceptance and Request for Copy of Notice of Default and Sale.

7. Recording

If the property bond is approved, the Order will be signed. The Deed of Trust, Certificate of Acceptance and Request for Copy of Notice of Default and Sale will be returned to you, along with a copy of the order for recording. It is **YOUR** responsibility to record the Deed of Trust, Certificate of Acceptance and Request for Notice with the County Recorder's Office in the county where the real property is located.

To properly record the documents, record the Deed of Trust with the Certificate of Acceptance attached to the Deed of Trust as Exhibit "A" (the Deed of Trust should be the top document). Then separately record the Request for Notice of Default and Sale. **Note** that you must record the Deed of Trust first as you will need to enter the Recorder's serial number from the Deed of Trust onto the Request for Notice of Default and Sale before recording the Notice.

After recording, you **MUST** provide proof of the recordation to the court at the second hearing. You must provide the proof in the following manner:

- Provide the court with the **original** of the recorded Deed of Trust, Certificate of Acceptance and the Request for Notice of Default and Sale (the recorded documents must contain the Recorder's stamp, sticker or coversheet indicating the Recorder's serial number).
- Provide county counsel with a **copy** of the recorded Deed of Trust, Certificate of Acceptance and the Request for Notice of Default and Sale (the recorded documents must contain the Recorder's stamp, sticker or coversheet indicating the Recorder's serial number).

At the second hearing the court will receive the documents, which constitute proof of recordation, confirm they were accepted for recording, and an order for the release of the defendant will be prepared and forwarded to the jail.

PLEASE NOTE: THERE IS A RECORDING FEE AND AN ORDER WILL NOT BE ISSUED RELEASING THE DEFENDANT UNTIL PROOF OF RECORDING IS SUBMITTED TO THE COURT

8. Safekeeping of the Promissory Note and Deed of Trust.

The clerk insures that the promissory note and the recorded deed of trust are kept in the clerk's safe or otherwise maintained to ensure their retention.

9. If the bail is exonerated by the Court.

- A. An entry is made indicating that the bail has been exonerated and that the promissory note and deed of trust have been released.
- B. You must submit a Request for Reconveyance to the Executive Officer of the Court. The Executive Officer or designated representative, pursuant to the authority of the County Board of Supervisors signs the Request for Reconveyance.
- C. After filing copies in the file, the clerk sends the promissory note, deed of trust and executed Request for Reconveyance, to the applicant. The applicant must then take the documents to the trustee to obtain a reconveyance of the real property.

10. If the bail is subsequently forfeited by the Court.

- A. If the defendant subsequently fails to appear in court in violation of the court's order, the court may order bail forfeited.
- B. If bail is ordered forfeited by the court, the court may subsequently enter summary judgment on the bail. At that time, the County of Ventura may initiate foreclosure proceedings against the real property.
- C. **NOTE:** It is the defendant and the real property owner's responsibility to ensure that the defendant appears at any subsequent court proceeding where the defendant's personal attendance is required. If any questions arise concerning bail forfeiture, it is recommended that you consult an attorney.