

**INSTRUCTIONS FOR POSTING REAL PROPERTY SURETY BOND
FOR PRETRIAL RELEASE IN CRIMINAL CASES**

There are 3 different considerations in using a Real Property Bond for Pretrial Release in Criminal Cases, please refer to the section that matches the relevant bond amount.

A. If the TOTAL Bond amount for all charges subject to pre-trial release is less than \$5,000:

1. Take the Real Property Bond Certification form to the Mecklenburg County Tax Office located at 700 East Stonewall Street, Charlotte, NC (near the intersection of McDowell Street) and ask a representative in the Tax Collector's Office to complete the information in section one of the form, date and sign the form; and
2. Take the Real Property Bond Certification form to the Register of Deeds Office, Room 101 of the County Courts Office Building, 720 E. 4th Street, Charlotte, NC 28202 and ask a representative to complete the information in section two of the form, date and sign the form; and
3. After completing the above steps, all owners of the real property must be present in Room 2132 of the Mecklenburg County Courthouse, 832 E. 4th Street, Charlotte, NC 28202 with the completed Real Property Bond Certification form to execute the Bond before an Assistant Clerk of Superior Court. All owners must be competent adults and must have an acceptable state issued photo identification card.
4. Note: If the real property owner is the Defendant in custody, the procedure below must be followed for all bond amounts.

B. If the TOTAL Bond amount for all charges subject to pre-trial release is more than \$5,000 but less than \$15,000, there may be other pre-trial release options.

Please be aware that the inherent costs of the legal process including your attorney's fees for certifying the title to the real property, preparation costs for the Note and Deed of Trust, recording fees, and other expenses, could equal or exceed the cost of utilizing a professional bonding service, or the amount of simply posting a cash bond. *Consult with your attorney before beginning this process to determine the most appropriate option for pre-trial release. If you do not have an attorney, you can consult the Lawyer Referral Service 704-375-0120 of the Mecklenburg County Bar or, if the case is assigned a public defender you may call the public defender.*

Also, please be aware that a bond review hearing could decrease the amount of a bond or possibly unsecure a bond, thus making this process costly or unnecessary. You may want to consult with your attorney or the public defender (if applicable) to determine if a bond reduction is scheduled for the Defendant seeking pre-trial release.

C. If the TOTAL Bond amount for pre-trial release is more than \$15,000:

The following items must be prepared prior to scheduling a time for the signing of the Appearance Bond For Pretrial Release (AOC Form CR-201) form at scheduled appointment before the Clerk of Superior Court's office in Room 3600 of the Mecklenburg County Courthouse, 832 E. 4th Street, Charlotte, NC 28202. The process can be expedited by having the documents faxed to the Clerk of Superior Court's office for review and corrections prior to presentation. Please fax all the completed

documents to: 704-686-0410, please include the number where you or your attorney can be contacted for questions/corrections/and or scheduling the appointment for the signing of AOC Form CR-201. The following items must be properly completed at the appointment before the Clerk, and are the same documents that should be faxed in advance of any appointment.

1. **Office of the Tax Collector Certification.** Take the **Real Property Bond Certification** form to the Mecklenburg County Office of the Tax Collector located at 700 East Stonewall Street, Charlotte, NC (near the intersection of McDowell Street) and ask a representative in the Office of the Tax Collector to complete the information in section one of the form, date and sign the form, and
2. **Register of Deeds Certification.** Take the **Real Property Bond Certification** form to the Register of Deeds Office, 720 East Fourth Street, Ste 101, Charlotte, NC 28202 in the County Courts Office Building, and ask a representative to complete the information in section two of the form, date and sign the form.
3. **Determination of Available Equity.** The information on the **Real Property Bond Certification** form will be reviewed to determine the available equity in the property that may be used for pre-trial release, and to secure that the value (as determined by the Clerk's office in their discretion) is sufficient to meet the surety nature of the real property bond required by NC law to fully cover the bond amount being secured.

The Clerk of Superior Court's Office may consider the following in determining surety property value.

- a. The amount of the tax value of the real property (as certified),
- b. Less an amount to ensure the surety nature of the bond and that upon an involuntary sale, sufficient funds would remain after costs of sale to pay the total amount of the surety bond. Therefore, the amount be adjusted to 60% of the Tax Value for the amount of the Bond if the Property is owner occupied residential real estate. If the property is commercial, only 50% of the Tax Value may be available for the amount of the bond. If the property has any hazards, limiting factors on value or other value concerns the usable value may be reduced to adequately reflect the surety nature of the property bond. If the property is vacant or only raw land, it will be subject to review but usually less than 40% of the Tax Value may be available due to marketability issues and decreased value brought through foreclosure and other involuntary sales;
- c. Less the amount of any unpaid mortgages, tax liens or encumbrances (The Clerk's office will rarely accept a secondary lien position on property, due to the surety requirements of the bond.)
- d. All currently due and payable taxes must be paid in full, and a copy of a paid receipt from the Mecklenburg County Tax Collector (or other such other tax authority as may have or create a lien upon the property, including liens to the City of Charlotte for assessments, charges, costs and expenses that are liens against the property);
- e. Lines of credit that are a lien against property must be addressed. All prior liens and lines of credit must be closed, with a copy of acknowledgment from the Lender holding any such lien, along with a certification by the attorney that has paid off the line of credit (as applicable); or if allowed to remain open, the full amount of the line of credit shall be deducted (even if not fully drawn upon) to determine the usable value (since the credit could be drawn upon subsequently). Before closing a line of credit, it is your responsibility to understand the risks involved and to assure that your proposed security bond is likely to be approved by the Clerk of Court's office.

4. **Certification of Title to be Prepared by a NC Licensed Attorney.** If it is determined that the real property has sufficient value to be used for the charges and proposed surety bond for pre-trial release, a licensed **North Carolina attorney** must prepare the following documents:
- a. Certified title opinion letter (NC Bar Form #1) signed by a *North Carolina licensed attorney*, confirming tax value, status of all liens and encumbrances and a minimum of a 30 year title search
 - b. Deed of Trust (Mortgage) (NC Bar Form #5, with Due on Sale Clause Marked) with the Trustee: Elisa-Chinn Gary, Clerk of Superior Court for Mecklenburg County, 832 E. 4th Street, Ste 3600, Charlotte, NC 28202 or her successor(s) in Office; and the Beneficiary: The State of North Carolina.
 - c. Promissory Note (NC Bar Form #4) to The State of North Carolina payable on demand to secure the appearance of _____ (Defendant's name) for cases numbers _____, _____ (list all case numbers that the bond will cover), at all stages of the case(s), stating the case number and the amount of each bond, and the total amount of the property bond that is the surety amount for the Pre-Trial Release.
 - d. Have your attorney call the Clerk's Office at 704 686-0420 to advise that a proposed bond is going to be faxed, and fax to 704-686-0410 and once it has been reviewed and any required corrections have been completed then call 704-686-0420 to set up an appointment and hearing date (see below).
5. **Appointment/Hearing and Oath By Property Owner's Before the Clerk & Signing the Appearance Bond For Pretrial Release (AOC Form CR-201).** After completing the above steps, an appointment needs to be made with the Clerk of Superior Court's Office and all owners of the real property must be present in Room 3600 of the Mecklenburg County Courthouse, Charlotte, NC with all the completed documents and the Appearance Bond For Pretrial Release (AOC Form CR-201), and each owner must bring with them the following information and documents:
- a. Defendant's social security number.
 - b. Completed Real Property Bond Certification dated and signed.
 - c. Completed Deed of Trust with notarized property owner's signatures.
 - d. Completed Promissory Note with property owner's signatures.
 - e. Completed and signed Certified NC Bar Form #1 title opinion letter (see 4(a) above)
 - f. Recording Fee: \$56 for up to 15 pages; \$4 for each additional page. If the top 3 inches across the first page is not blank and/or paper size is larger than 8 1/2" X 11", and additional \$25 fee is required. (These fees are set by state law and may be verified with the Register of Deeds office and are subject to change without notice.)
 - g. Appearance Bond For Pretrial Release (AOC Form CR-201), to be signed under Oath at the Clerk of Superior Court's Office
6. **If Property Owner Is The Defendant.** If the Defendant is the owner of the Property, then call the Clerk of Superior Court's Office to determine the proper procedure to have the Defendant to sign the Appearance Bond For Pretrial Release (AOC Form CR-201) form prior to its presentation to the Clerk of Superior Court's Office.

Contact the Clerk of Superior Court's Office to discuss the amount of the bond and the value of the property before scheduling a hearing on the bond. Fax

the proposed documents to 704-686-0410, then please call 704-686-0420 to advise that the fax has been sent for review.

Important Notes: Generally, for real property to be used for a surety property bond, it must have a permanent structure used for residential or commercial purposes, and all decisions as to value and use of property as surety shall be in the discretion of the Clerk's office.

All owners must be competent adults and must have an acceptable state issued photo identification card.

If there is a Governor's Warrant or other similar process outstanding from another state, a property bond is NOT appropriate for pre-trial release of the Defendant, and will not be accepted.

Bond's cannot be split within a charge. In order to use a surety real property bond for a criminal charge, the property value must cover the entire amount of a criminal bond for all of a particular charge. With real property bonds there can be no partial cash, partial real property surety bond, or partial professional bail bondsman as to any charge(s): any real property bond must have sufficient surety value in itself to available for a charge or charges for which it acts as surety bond.

WHEN THE CRIMINAL CASES ARE CLOSED, CALL 704-686-0420 IN ORDER TO HAVE THE DEED OF TRUST CANCELLED. THE CANCELLATION OF A PROPERTY BOND REQUIRES YOUR NOTIFICATION TO THE CLERK OF SUPERIOR COURT THAT THE CASE HAS BEEN COMPLETED AND THE BOND IS NO LONGER REQUIRED (WHICH WILL BE VERIFIED BY THE CLERK'S OFFICE), THERE IS NO AUTOMATIC CANCELLATION OF BONDS AND A BOND WILL REMAIN OF RECORD UNTIL THE CHARGE HAS BEEN DISPOSED OF AND NOTICE OF THE DISPOSITION IS GIVEN TO THE CLERK OF SUPERIOR COURTS OFFICE.