

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Criminal appearance bonds set by the court are either personal recognizance, unsecured or secured. The judge may impose additional conditions for release and may order the defendant or material witness to post a financial bond. Financial bonds can be either unsecured or secured. A judicial order setting conditions of release is entered and the applicable appearance bond form(s) are executed by the defendant.

Forms

Appearance Bond Form Number	Title
AO 98	Appearance Bond
AO 99	Appearance Bond of Witness
AO 199A	Order Setting Conditions of Release
AO 199B	Additional Conditions of Release
AO 199C	Advice of Penalties/Acknowledgement
n/a	Affidavit by Owner of Cash Bail (or a Declaration of Ownership of Cash Bail) ¹

When to use

Listed below are the forms to use for each type of criminal bond scenario.

If...	Then use...
Personal Recognizance Bond	<ul style="list-style-type: none"> • AO 98 • AO 199A-C
Unsecured Bond or Surety Bond by Bondsman	<ul style="list-style-type: none"> • AO 98 • AO 199A-C
Real Estate or Cash Bond	<ul style="list-style-type: none"> • AO 98 • AO 199A-C • Affidavit by Owner of Cash Bail (or a Declaration of Ownership of Cash Bail)

PERSONAL RECOGNIZANCE (PR) BOND

Pursuant to 18 U.S.C. § 3142(a)(1) and (b), a judicial officer is authorized to release persons on their own recognizance. A defendant released on personal recognizance promises only to make all further court appearances as required and there are no financial conditions.

UNSECURED BOND

An unsecured appearance bond is executed in an amount specified by the Court and may include the promise of a third party cosigner (e.g., a family member) that the defendant will appear for all further court appearances as required. The unsecured bond is set in a dollar

¹ The Declaration of Ownership of Cash Bail form can substitute for the Affidavit by Owner of Cash Bail form. The Declaration form is used when the surety posting the bond is not able to sign and swear the money is his/hers in the presence of a deputy clerk, e.g. the surety is in a different state. The Declaration must be notarized and sent to the clerk's office with the bail money.

amount, but without the requirement that security be posted to cover that sum.

SECURED BOND

When specified by the judicial officer, a secured appearance bond requires the posting of either cash for the total amount (fully secured), or a percentage thereof (e.g. 10% secured), by a corporate surety, a professional bondsman, a third party cosigner (e.g., a family member), or the defendant; or secured by real property (a “property bond”) in an amount specified by the Court. The Court may order a combination of these conditions.

Note: When cash is to be posted, the *Affidavit by Owner of Cash Bail (or Declaration of Ownership of Cash Bail)* form is always to be filled out and signed by the surety. Use a separate information sheet for each surety.

Corporate surety bonds

The U.S. Treasury publishes a list of surety/insurance companies approved to write federal bonds. The companies must register a local agent, or surety bondsman, to write bonds on its behalf, and they must:

- Have a valid Power of Attorney on file with the Court.
- File a copy of the paper license with the county clerk of court in the county where the federal bond will be posted.
- Complete the company’s power of attorney form which is then attached to the **Form AO 98 Appearance Bond**.

Bonds executed by professional bondsman

Submitted bond documents by a professional bondsman must contain a statement that the bondsman’s license has been filed with the clerk of the court of the county where the federal bond will be posted. The bondsman will sign bond form either in open court or in Clerk’s Office.

Bonds secured by cash

The surety signs the bond form in open court before a judicial officer. A bond may be fully secured by cash, certified check, money order, or credit card. If a bond is *fully* secured the whole amount must be deposited. Certified funds by cashier’s check or money order are to be made payable to **Clerk, U.S. District Court**. The owner(s) of the cash deposited must be in court to sign the bond as surety. A bond that is set at “10% secured” may be secured by the same methods as a fully secured bond but the amount to be deposited is 10% of the bond set by the court. Credit cards accepted by the court are Visa, MasterCard, American Express, and Diner’s Club. The surety signs the bond form in open court before a judicial officer.

Real property bonds

In order for the bond to be accepted, the surety must show equity in the property equal to or greater than the amount of the bond. Generally, the estimated market value of the property minus any amount of mortgage due is the equity that may be considered the collateral for the property bond. The ultimate responsibility to present the property bond valuation documents rests solely with the defendant and his/her counsel. A defendant seeking to secure a bond using real property shall prepare the following property bond valuation documents:

- **Warranty or Quit Claim Deed**, either the original or a certified copy (**Not** “Deed of Trust”).
- Most current paid **property tax receipt**.
- **Current Notice of Valuation** of the property by the county assessor.
- **Written letter from the mortgage company** (must be on company letterhead) or notarized statement from individual to whom the mortgage is owed, including a current balance (within the last six months). If the mortgage has been transferred to another lending institution, written documentation of the transfer is required.
- **Evidence of Title** (also known as Ownership & Encumbrance Report) issued by a title insurance company or licensed agent; must be issued within the last 35 days and must include all liens or encumbrances against the property, or a statement that there are no liens or encumbrances against the property. **Note:** Titles and deeds are not considered collateral but are proof of ownership of the subject property.
- **Notice of Lien** naming the “Clerk of Court, United States District Court, District of Colorado” as the claimant/beneficiary. The Notice of Lien, after approval by the U.S. District Court’s judicial officer, must be recorded with the county clerk and the recorder in the county where the property is located before the release of the defendant. The signature of the property owner on the Notice of Lien must be notarized. Any recording and notary fees are to be paid by the defendant or property owners. The receipt confirming the recording of the Notice of Lien must be provided to the U.S. District Court for filing in the U.S. District Court case. The bond release hearing shall be scheduled **after** the receipt confirming the county’s recording of the property lien has been filed.

A checklist is required to be filled out, signed, and turned in with the valuation documents. The checklist is included at the end of this document and provided on the forms page of the district court’s website. A courtesy Notice of Lien form is provided on the forms page of the district court’s website. Please read the footnote in the Notice of Lien form.

Note: Unless otherwise ordered by the Court, the defendant is to remain in custody pending compliance with the conditions detailed in the *Order Setting Conditions of Release*, if any, and resolution of the sufficiency of the property bond(s). The judge may schedule periodic conferences (optional) for the parties to report on the status of the efforts to comply with the conditions.

Information on posting out-of-state property bonds

The presiding judicial officer may set a property bond where the property to be posted is located in another state. In order for the bond to be accepted, the surety must show equity in the property equal to or greater than the amount of the bond. Generally, the estimated market value of the property minus any amount of mortgage due is the equity that may be considered the collateral for the property bond. The ultimate responsibility to present the property bond valuation documents rests solely with the defendant and his/her counsel.

- Some district courts (California) deed the property to the USDC. If this is the case, be sure that the District of Colorado is named on the deed and not the

district where the property is located.

- Some district courts do not allow property bonds. In this case the county clerk in the county where the property is located will assist the defendant and his/her counsel with the process.

*** The Checklist for Preparing Property Bonds is on the next page.***

CHECKLIST FOR PREPARING PROPERTY BONDS

(This checklist must be signed and turned In with the required documents listed below)

Case No. _____ Defendant's Name _____

Property Address _____

Property Owner's Name _____

Contact's Name and Phone Number _____

Amount of Bond Set \$ _____

Required Documents:

Warranty or Quit Claim Deed, either the original or a certified copy (**Not** "Deed of Trust").

Most current paid **property tax receipt**.

Current Notice of Valuation of the property by the county assessor.

Written letter from the mortgage company (must be on company letterhead) or notarized statement from individual to whom the mortgage is owed, including a current balance (within the last six months). If the mortgage has been transferred to another lending institution, written documentation of the transfer is required.

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The Available Equity (Current Value after subtracting the balance of all current mortgages and the balance of any liens and encumbrances) is

\$ _____

Signature of Counsel

Date _____