

## **IC 34-55-2**

### **Chapter 2. Stay of Execution**

#### **IC 34-55-2-1**

##### **Bail for stay of executions; entry on record**

Sec. 1. The bail for stay of execution may be taken and approved by the clerk and the recognizance entered of record at any time before the stay of execution expires. The undertaking in the recognizance is for the payment of the judgment, interest, and costs that may accrue at or before the expiration of the stay of execution. The recognizance shall be written immediately following the entry of the judgment and signed by the bail.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-2-2**

##### **Return of execution upon entry of bail**

Sec. 2. When bail is entered after execution is issued, the clerk shall immediately notify the sheriff of the stay of execution. The sheriff shall immediately return the execution, noting the sheriff's actions on the execution.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-2-3**

##### **Execution issued for want of bail; clerk's endorsement**

Sec. 3. When execution issues for want of bail before the stay of execution expires, the clerk shall endorse on the execution:

- (1) the date of the judgment; and
- (2) that the execution is repleviable.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-2-4**

##### **Stay of execution for remainder of term**

Sec. 4. In a case described in section 3 of this chapter, the defendant may have a stay of execution for the remainder of the term of the stay of execution by putting in bail, approved by the sheriff, and endorsed on the stay and signed by the surety.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-2-5**

##### **Return of execution by sheriff; copy of recognizance on execution docket**

Sec. 5. The sheriff, having taken the bail, shall immediately return the execution, with the sheriff's actions noted on the execution to the clerk's office. The clerk shall copy the recognizance in the execution docket. The recognizance has the same force as if taken by the clerk.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-2-6**

##### **Relinquishment of property levied before stay of execution**

Sec. 6. All:

(1) property levied on before stay of execution; and  
(2) written undertakings for the delivery of personal property to the sheriff;  
shall be relinquished by the officer upon bail for the stay of execution being entered.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-2-7**

##### **Recognizance of bail; effect of judgment confessed**

Sec. 7. Every recognizance of bail, taken as provided in this chapter, has the effect of a judgment confessed, from the date of the recognizance, against the person and property of the bail.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-2-8**

##### **Praecepte and fee bill**

Sec. 8. (a) An execution shall not be issued in any cause except on the written praecipe of:

- (1) a party to the suit;
- (2) the party's representatives or assigns; or
- (3) the party's attorney of record.

(b) A fee bill shall not be issued unless the fee bill is ordered by the person to whom the fees or a part of the fees are due. However, the clerk shall receive nothing for any fee bill issued for the clerk's own fees.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-2-9**

##### **Joint executions**

Sec. 9. At the expiration of the stay, the clerk shall issue a joint execution against the property of all the judgment debtors and replevin bail. The sheriff shall first levy upon the property of the judgment defendants, if sufficient property can be found. If not, the sheriff shall, without delay, levy the execution upon the property of the bail. However, no property of the bail shall be sold while property of the original judgment debtor, subject to the execution, can be found in the county.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-2-10**

##### **When stays not allowed**

Sec. 10. (a) A stay of execution is not allowed upon any judgment recovered against any officer, person, or corporation, or the sureties of an officer, person, or corporation, for money received in a fiduciary capacity, or for a breach of any official duty.

(b) The clerk shall immediately issue executions upon judgments described in subsection (a), returnable in ninety (90) days, and endorsed "not repleviable". It shall be so ordered in the judgment.

*As added by P.L.1-1998, SEC.51.*

**IC 34-55-2-11****Sureties' objections to stay**

Sec. 11. When any court renders judgment against two (2) or more persons, any of whom are sureties for any other or others in the contract on which the judgment is founded, there shall be no stay of execution on the judgment if the sureties object at the time of rendering the judgment. It shall be so ordered by the court unless surety for the stay of execution will undertake specially to pay the judgment, in case the amount of the judgment cannot be levied of the principal defendant.

*As added by P.L.1-1998, SEC.51.*

**IC 34-55-2-12****Surety for stay; request for immediate execution**

Sec. 12. A surety for the stay of execution may file with the clerk an affidavit, stating that the surety truly believes that the surety will be liable for the judgment, interest, and costs unless execution issues immediately. The clerk shall immediately issue execution unless other sufficient bail is entered before the clerk or sheriff as in other cases.

*As added by P.L.1-1998, SEC.51.*

**IC 34-55-2-13****Entry of other bail; effect**

Sec. 13. If other sufficient bail is entered, it shall have the force of the original bail entered before the filing of the affidavit and shall discharge the original bail.

*As added by P.L.1-1998, SEC.51.*