BEST PRACTICE CHECKLIST-BAIL BONDS FORFEITURE

Mandatory Elements

1. ☐ Pay bond forfeitures (estreatures) into the Clerk's Fine and Forfeiture Fund, per s.142.01, F. S.
2. ☐ Remit $3 from every bond forfeiture to the Department of Revenue, per s. 938.01(1), F.S.
3. ☐ Notify the Department of Financial Services if the Clerk is aware that a bond agent has been convicted of, or has pled guilty or no contest to the following offenses: A "felony or a crime involving moral turpitude or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, regardless of whether adjudication of guilt was withheld." *See* s. 648.44(8), F.S.
4. ☐ Withhold from the return of a cash bond "sufficient funds to pay any unpaid court fees, court costs, and criminal penalties." This includes civil service and filing fees and restitution but does not include child support or money that might be owed to a third party per s. 903.286, F.S.
5. ☐ Participate in the bond discharge, forfeiture, remission and judgments processes as mandated by and specified in Chapter 903. *See the Best Practice for details.*
6. ☐ Accept original bonds from the Sheriff, if proffered. The sheriff is authorized to retain original bonds, but if the sheriff turns bonds over to Clerks, Clerks are required to accept them per s. 903.16, F.S.
7. ☐ Establish a process for registration of bond agents, since agents must register with sheriffs and clerks in each county where the agent wants to write bonds. This responsibility can be shared with the sheriff's office to varying degrees per s. 648.42, F.S.

Optional Elements

1. ☐ Consider representation by legal counsel in this complex area of the law. Clerks are specifically recognized as a party to appeals involving remission, so this aspect of a clerk's role should also be considered.
2. ☐ Consider keeping the original bonds separate from case files, while placing a copy of the bond in case files. This allows use of the discharge certificate attached to the bond; allows centralized bond processing; and allows destruction of the bond after the 3-year retention period. For Clerks operating in a file-less court environment, eliminate manual processing of bond discharges by emailing a bond notification report to each agent as bonds are discharged.
3. ☐ Clerks should ideally make remission/bond return payments within 30 days. Section 28.245, F.S., requires transmittal of funds to DOR by the 10th of each month; s. 213.13, F.S., requires electronic remittance and distribution of funds collected by clerks of the court. Payments should be made to the entity that made the initial payment. Review the file for demands made by the surety, if any, for payment of remission when payment is made by the surety and provide this information to the court and the parties.
4. ☐ Consider a policy that allows for cash bond depositors whose bonds have been forfeited to move for discharge, set aside, or remission as provided for surety agents in this procedure.
5. ☐ For property bonds to be posted with the Clerk, there must be a court order authorizing a defendant to do so.
6. ☐ Determine a policy on how to respond to discharge or set aside motions, based on defendants being in custody, within the state, charges dismissed or dropped, circumstances arising either before or even *after* the failure to appear, etc.
7. ☐ Clerks may meet the "circuit court" requirement of s. 903.26(4)(a), F.S., in different ways, depending on the judiciary and/or administrative orders in place, including opening cases to handle these judgments.
8. ☐ If Clerks determine Rule 2.514 applies to bond forfeitures, add an additional five days by calculating the last day as usual and adding five days (five days "are added after the period that would otherwise expire under subdivision (a)").