

AMENDED IN SENATE JUNE 10, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1856**

---

---

**Introduced by Assembly Member Wilk**

February 19, 2014

---

---

An act to amend Sections 995.710, 995.720, 995.740, and 995.760 of the Code of Civil Procedure, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1856, as amended, Wilk. Deposit in lieu of bond.

Existing law allows, among other things, bearer bonds and bearer notes of the United States or this state and certificates of deposit payable, not exceeding the federally insured amount, issued by banks or savings associations authorized to do business in this state and insured by the Federal Deposit Insurance Corporation to be deposited with the officer, as defined, in lieu of a bond required by an action or proceeding, except as provided.

This bill would allow all bonds and notes of the United States or the State of California and cashier's checks, payable to the officer, to be deposited with the officer in lieu of a bond, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 995.710 of the Code of Civil Procedure  
2 is amended to read:

3 995.710. (a) Except as provided in subdivision (e) or to the  
4 extent the statute providing for a bond precludes a deposit in lieu  
5 of bond or limits the form of deposit, the principal may, *without*  
6 *prior court approval*, instead of giving a bond, deposit with the  
7 officer any of the following:

8 (1) Lawful money of the United States *or a cashier's check,*  
9 *made payable to the officer, issued by a bank, savings association,*  
10 *or credit union authorized to do business in this state.* The money  
11 shall be ~~maintained~~ *held in trust* by the officer in ~~an~~ interest-bearing  
12 ~~trust account~~ *deposit or share accounts.*

13 (2) Bonds or notes, including bearer bonds and bearer notes, of  
14 the United States or the State of California. The deposit of a bond  
15 or note pursuant to this section shall be accomplished by filing  
16 with the court, and serving upon all parties and the appropriate  
17 officer of the bank holding the bond or note, instructions executed  
18 by the person or entity holding title to the bond or note that the  
19 treasurer of the county where the judgment was entered is the  
20 custodian of that account for the purpose of staying enforcement  
21 of the judgment, and that the title holder assigns to the ~~Treasurer~~  
22 *treasurer* the right to collect, sell, or otherwise apply the bond or  
23 note to enforce the judgment debtor's liability pursuant to Section  
24 995.760.

25 (3) Certificates of deposit payable to the officer, not exceeding  
26 the federally insured amount, ~~or a cashier's check made payable~~  
27 ~~to the officer~~, issued by banks or savings associations authorized  
28 to do business in this state and insured by the Federal Deposit  
29 Insurance Corporation. ~~Any money deposited using a cashier's~~  
30 ~~check shall be maintained by the officer in an interest-bearing trust~~  
31 ~~account.~~

32 (4) Savings accounts assigned to the officer, not exceeding the  
33 federally insured amount, together with evidence of the deposit in  
34 the savings accounts with banks authorized to do business in this  
35 state and insured by the Federal Deposit Insurance Corporation.

36 (5) Investment certificates or share accounts assigned to the  
37 officer, not exceeding the federally insured amount, issued by

1 savings associations authorized to do business in this state and  
2 insured by the Federal Deposit Insurance Corporation.

3 (6) ~~Certificates for funds or share accounts assigned~~ *Share*  
4 *certificates payable* to the officer, not exceeding the guaranteed  
5 *or insured* amount, issued by a credit union, as defined in Section  
6 14002 of the Financial Code, whose ~~share deposits~~ *accounts* are  
7 ~~guaranteed insured~~ by the National Credit Union Administration  
8 or *guaranteed or insured* by any other agency ~~approved by the~~  
9 ~~Department of Financial Institutions that the Commissioner of~~  
10 *Business Oversight has not deemed to be unsatisfactory.*

11 (b) The deposit shall be in an amount or have a face value, or,  
12 in the case of bonds or notes, have a market value, equal to or in  
13 excess of the amount that would be required to be secured by the  
14 bond if the bond were given by an admitted surety insurer.  
15 Notwithstanding any other provision of this chapter, in the case  
16 of a deposit of bonds or notes other than in an action or proceeding,  
17 the officer may, in the officer's discretion, require that the amount  
18 of the deposit be determined not by the market value of the bonds  
19 or notes but by a formula based on the principal amount of the  
20 bonds or notes.

21 (c) The deposit shall be accompanied by an agreement executed  
22 by the principal authorizing the officer to collect, sell, or otherwise  
23 apply the deposit to enforce the liability of the principal on the  
24 deposit. The agreement shall include the address at which the  
25 principal may be served with notices, papers, and other documents  
26 under this chapter.

27 (d) The officer may prescribe terms and conditions to implement  
28 this section.

29 (e) This section does not apply to deposits with the Secretary  
30 of State.

31 SEC. 2. Section 995.720 of the Code of Civil Procedure is  
32 amended to read:

33 995.720. (a) The market value of bonds or notes, including  
34 bearer bonds and bearer notes, shall be agreed upon by stipulation  
35 of the principal and beneficiary or, if the bonds or notes are given  
36 in an action or proceeding and the principal and beneficiary are  
37 unable to agree, the market value shall be determined by court  
38 order in the manner prescribed in this section. A certified copy of  
39 the stipulation or court order shall be delivered to the officer at the  
40 time of the deposit of the bonds or notes.

1 (b) If the bonds or notes are given in an action or proceeding,  
2 the principal may file a written application with the court to  
3 determine the market value of the bonds or notes. The application  
4 shall be served upon the beneficiary and proof of service shall be  
5 filed with the application. The application shall contain all of the  
6 following:

7 (1) A specific description of the bonds or notes.

8 (2) A statement of the current market value of the bonds or notes  
9 as of the date of the filing of the application.

10 (3) A statement of the amount of the bonds or notes that the  
11 principal believes would be equal to the required amount of the  
12 deposit.

13 (c) The application pursuant to subdivision (b) shall be heard  
14 by the court not less than five days or more than 10 days after  
15 service of the application. If at the time of the hearing no objection  
16 is made to the current market value of the bonds or notes alleged  
17 in the application, the court shall fix the amount of the bonds or  
18 notes on the basis of the market value alleged in the application.  
19 If the beneficiary contends that the current market value of the  
20 bonds or notes is less than alleged in the application, the principal  
21 shall offer evidence in support of the application, and the  
22 beneficiary may offer evidence in opposition. At the conclusion  
23 of the hearing, the court shall make an order determining the market  
24 value of the bonds or notes and shall fix and determine the amount  
25 of the bonds or notes to be deposited by the principal.

26 SEC. 3. Section 995.740 of the Code of Civil Procedure is  
27 amended to read:

28 995.740. If no proceedings are pending to enforce the liability  
29 of the principal on the deposit, the officer shall:

30 (a) Pay quarterly, on demand, any interest on the deposit, when  
31 earned in accordance with the terms of the account or certificate,  
32 to the principal.

33 (b) Deliver to the principal, on demand, any interest coupons  
34 attached to bonds or notes, including bearer bonds and bearer notes,  
35 as the interest coupons become due and payable, or pay annually  
36 any interest payable on the bonds or notes.

37 SEC. 4. Section 995.760 of the Code of Civil Procedure is  
38 amended to read:

39 995.760. (a) If the principal does not pay the amount of the  
40 liability on the deposit within the time prescribed in Section

1 995.750, the deposit shall be collected, sold, or otherwise applied  
2 to the liability upon order of the court that entered the judgment  
3 of liability, made upon five days' notice to the parties.

4 (b) Bonds or notes, including bearer bonds and bearer notes,  
5 without a prevailing market price shall be sold at public auction.  
6 Notice of sale shall be served on the principal. Bonds or notes  
7 having a prevailing market price may be sold at private sale at a  
8 price not lower than the prevailing market price.

9 (c) The deposit shall be distributed in the following order:

10 (1) First, to pay the cost of collection, sale, or other application  
11 of the deposit.

12 (2) Second, to pay the judgment of liability of the principal on  
13 the deposit.

14 (3) Third, the remainder, if any, shall be returned to the  
15 principal.

O