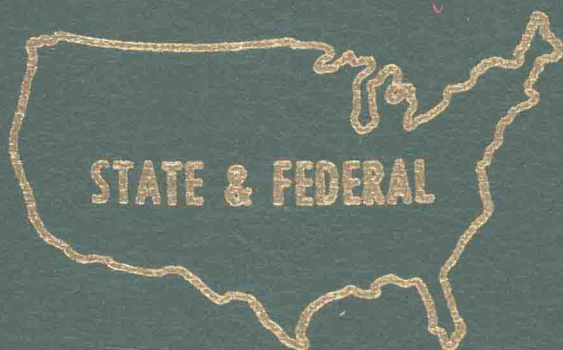


AMERICAN JURISPRUDENCE 2d



SURETYSHIP
—
TREATIES

AMERICAN JURISPRUDENCE

SECOND EDITION

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OF AMERICAN LAW

STATE AND FEDERAL

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SURETYSHIP

by

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Scope of Topic: This article discusses the general principles of the law of suretyship and of the rights and liabilities of sureties, including the rights of a surety against the principal obligor and the rights of cosureties against each other, as well as the rights and remedies of obligees and creditors, and of surety companies and compensated sureties.

Treated elsewhere are the related subjects of guaranty (see 38 Am Jur 2d, GUARANTY) and indemnity (see 41 Am Jur 2d, INDEMNITY); fidelity bonds and fidelity insurance covering officers and employees of private businesses (see 35 Am Jur 2d, FIDELITY BONDS AND INSURANCE), public officers and employees (see 63 Am Jur 2d, PUBLIC OFFICERS AND EMPLOYEES §§ 414 et seq.), and bank officials and employees (see 10 Am Jur 2d, BANKS §§ 82 et seq.); the applicability of suretyship law to negotiable instruments (see 11 Am Jur 2d, BILLS AND NOTES §§ 120, 121, 532, 930, 931, and generally see 12 Am Jur 2d, BILLS AND NOTES, INDEX under heading "Sureties"); the distinction between sureties and indorsers (11 Am Jur 2d, BILLS AND NOTES § 535); the rights and liabilities of sureties on special bonds and undertakings such as appeal and superdeas bonds (see 5 Am Jur 2d, APPEAL AND ERROR §§ 1029 et seq.); bonds in attachment and garnishment proceedings (see 6 Am Jur 2d, ATTACHMENT AND GARNISHMENT §§ 518 et seq.; §§ 610-614), bail bonds (see 8 Am Jur 2d, BAIL AND RECOGNIZANCE §§ 96 et seq.), contractors' bonds (see 17 Am Jur 2d, CONTRACTORS' BONDS), cost bonds (see 20 Am Jur 2d, COSTS §§ 37 et seq.), executors' and administrators' bonds (see 31 Am Jur 2d, EXECUTORS AND ADMINISTRATORS §§ 126 et seq.; §§ 781 et seq.), guardians' bonds (see 39 Am Jur 2d, GUARDIAN AND WARD §§ 190 et seq.), injunction bonds (see 42 Am Jur 2d, INJUNCTIONS §§ 310 et seq.; §§ 368 et seq.), liquor dealers' bonds (see 45 Am Jur 2d, INTOXICATING LIQUORS §§ 195 et seq.), bonds furnished by those seeking to recover on lost or stolen instruments (see 52 Am Jur 2d, LOST AND DESTROYED INSTRUMENTS §§ 17, 50), security bonds for public deposits (see 63 Am Jur 2d, PUBLIC FUNDS §§ 21 et seq.), receivers' bonds (see 65 Am Jur 2d, RECEIVERS §§ 102 et seq.), replevin bonds (see 66 Am Jur 2d, REPLEVIN §§ 64 et seq.; §§ 130 et seq.), and trustees' bonds (see TRUSTS). Also treated elsewhere are general

questions relative to the execution and delivery, formal requisites, validity, construction, and operation of bonds (see 12 Am Jur 2d, BONDS); the liability of a retiring or withdrawing partner as a surety on partnership obligations (see 60 Am Jur 2d, PARTNERSHIP § 215); the defenses of a surety available to an accommodation party (see 11 Am Jur 2d, BILLS AND NOTES §§ 930, 931); the application of payments for which a surety is bound (see 60 Am Jur 2d, PAYMENT §§ 103-108); the right of a surety to bring suit to set aside a conveyance of his principal as fraudulent (see 37 Am Jur 2d, FRAUDULENT CONVEYANCES § 149); suretyship in respect of leases of real estate (see 49 Am Jur 2d, LANDLORD AND TENANT §§ 658 et seq.); the right of a surety, on payment of a mortgage indebtedness, to have an assignment of the mortgage (see 55 Am Jur 2d, MORTGAGES § 1345); the effect of the statute of frauds on the form of a suretyship contract (see 72 Am Jur 2d STATUTE OF FRAUDS, §§ 179 et seq.); the requisites of a promise by one other than the principal to indemnify a surety (see 72 Am Jur 2d, STATUTE OF FRAUDS §§ 239-241) the right of a surety to be subrogated to the rights of, and to securities held by, the obligee and the subrogation of the obligee to security given by the principal debtor to the surety (see Am Jur 2d, SUBROGATION).

Federal aspects: Claims of and against sureties in bankruptcy proceedings are discussed in 9 Am Jur 2d, BANKRUPTCY; Miller Act and Capehart Act bonds in 17 Am Jur 2d, CONTRACTORS' BONDS; and the release or discharge of a surety on a bond furnished as a condition of extending the time for payment of federal taxes in 35 Am Jur 2d, FEDERAL TAX ENFORCEMENT § 5.

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