



UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
OFFICE OF THE CLERK
1 COURTHOUSE WAY
BOSTON, MASSACHUSETTS 02210

ROBERT M. FARRELL
CLERK OF COURT

RECOMMENDED PROCEDURE FOR THE POSTING OF REAL PROPERTY AS
SECURITY FOR DEFENDANT'S APPEARANCE BOND IN CRIMINAL CASES

- 1) The **appearance bond** shall be signed by the person posting the property as a surety, and the first paragraph of the bond shall refer to the property as security for the bond.
- 2) A **certification of title** to the property should be required, at the defendant's expense, to confirm the surety's title to the property and to uncover any liens or encumbrances. This shall include a **copy of the surety's deed** to the property.
- 3) An **appraisal** should be required at the defendant's expense from a reputable real estate broker to show that the surety has sufficient equity in the property to cover the amount of the bond.
- 4) A **mortgage** should be prepared by the defendant's attorney in the form hereto annexed. The mortgage should be in the amount of the appearance bond, and it should name the "Clerk, U.S. District Court" as mortgagee (not the United States of America). When recorded, this mortgage will cloud the title to the property, thereby preventing the possibility of the surety conveying title to the property until final disposition of the criminal case. Note that the mortgage also requires **maintenance of insurance** on the property with the "Clerk, U.S. District Court" named as loss payee jointly with the surety.
- 5) An **escrow agreement** should be prepared by the defendant's attorney in the form annexed. The agreement requires that the surety deliver to the Clerk a quitclaim deed as indicated in paragraph #6, which will be held in escrow in accordance with the terms of the agreement.
- 6) A **quitclaim deed** should be prepared by the defendant's attorney that conveys title to the property from the surety to the "United States of America." The deed shall be delivered to the Clerk when the escrow agreement is executed. In the case of default, the government may take the property by simply recording the quitclaim deed.
- 7) The defendant's attorney shall be required to record the mortgage, and to provide proof of same to the Clerk of Court after processing (i.e., a copy containing the Registry's filing stamp, book and page number, etc.). An *Agreement to Forfeit Property* shall be executed by the defendant and/or surety, if the judge releases the defendant prior to the execution of the documents described in paragraphs 1-6 above.

Questions about this procedure should be directed to the courtroom deputy clerk assigned to the Judicial Officer setting the bail.