

## ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda—underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

### ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at [www.SourceWatch.org](http://www.SourceWatch.org).

MEETING

**DID YOU KNOW?** Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

Home → Model Legislation → Public Safety and Elections

### Bail Forfeiture Payments Act

Did you know the NRA--the National Rifle Association--was the corporate co-chair in 2011?

#### Summary

This Act requires a bail agent to pay all forfeiture judgments in a timely manner. No further bonds may be accepted from that agent anywhere in the state until the judgment is satisfied. This legislation intends to eliminate fly-by-night bonding practices.

#### Model Legislation

##### Section 1. {Definitions}

**Section 2. {Forfeiture upon Failure to Appear}** Upon the defendant having failed to appear at a required court appearance, the court shall declare the bail bond to be forfeited. The clerk of the court shall mail a notice of the forfeiture to both the surety and bail agent within fifteen (15) days of the non-appearance and order of forfeiture. A certificate signed by the clerk of the court or the court's designee, made under penalty of perjury, certifying that the notice required herein was mailed on a specific date and accompanied by a copy of the required notice, shall constitute sufficient proof that such mailing was properly accomplished as indicated herein. The failure of the court or its designee to mail the notice as indicated herein shall result in the setting aside of the forfeiture and exoneration of the bail bond or money deposited. In all other cases, the forfeiture shall be paid in full within sixty (60) days of the date appearing on the certificate of mailing on the forfeiture notice.

##### Section 3. {Forfeiture to Judgment}

(A). If the forfeiture is not paid **or set aside** by order of a court of competent jurisdiction within sixty (60) days from the date of the mailing of the notice of forfeiture, the clerk of the court for the county where the order of forfeiture was made shall enter a judgment against the surety for the penal amount of the bond. Within ten (10) days, the clerk shall furnish the Department of Insurance with a certified copy of the judgment and shall furnish the surety company at its home office a copy of the judgment, which shall reference the power of attorney number of the bond and the name of the executing agent. If the judgment is not paid within thirty (30) days, the clerk shall furnish the Department of Insurance and the sheriff of the county in which the bond was executed, or the official responsible for the operation of that county's jail, if other than the sheriff, two (2) copies of the judgment and a certificate stating that the judgment remains unsatisfied.

(B). Surety bail bonds may not be executed anywhere in the state by any agent of the judgment debtor surety if a judgment has been entered which then remains unpaid, and the Department of Insurance shall notice the surety to this effect. No sheriff or other official empowered to accept or approve bail bonds anywhere in the state shall accept or approve a bond from an agent or surety company that has failed to pay a judgment after thirty-five (35) days from the entry of the judgment, until such judgment has been paid in full.

(C). When and if the judgment is satisfied or an order to vacate the judgment is entered by a court of competent jurisdiction, the clerk shall immediately notify the sheriff, or other official responsible for the operation of the county jail, if other than the sheriff, and the Department of Insurance of such payment or order vacating the judgment. The Department of Insurance shall thereupon notice the surety of their reinstatement.

##### Section 4. {Relief from Forfeitures Requirement}

(A). If a motion to set the forfeiture or judgment is filed, as a condition of such filing and any subsequent order staying the enforcement of the judgment, the bail agent or surety shall pay the full amount of the judgment, in cash, to the clerk of the court. Such payment will be held in escrow by the court until such time as the court has ruled on the motion. The filing of such motion, when accompanied by the required escrow deposit, shall act as an automatic stay on further proceedings, including execution of the judgment and notice to the Department of Insurance and

sheriff, until such motion has been heard and a decision rendered by the court.

(B). If an appeal is taken from the court's adverse ruling on a motion to set aside, that ruling may be appealed from, but there shall be no stay of collection proceedings absent the cash escrow remaining in place. Should a motion on appeal be ruled upon in favor of the surety, the escrowed funds shall be fully remitted within then (10) days after certified copy of the order is delivered to the clerk.

#### **Section 5. {Remission of Forfeiture}**

(A). In the event that a forfeiture is paid, on application by the bail agent or surety brought at any time within three (3) years from the date of payment, the court shall order remission of the payment according to the below-described terms:

1. That the bond is, for any cause, not a valid and binding undertaking in law. If it be valid and binding as to the principal, and one or more of his sureties, if any, they shall not be exonerated from liability because of its being invalid and not binding as to another surety or sureties, if any. If it be invalid and not binding as to the principal, each of the sureties, if any, shall be exonerated by liability. If it be valid and binding as to the principal, but not so as to the sureties, if any, the principal shall not be exonerated, but the sureties, if any, shall be.

2. The death of the principal before the forfeiture was taken.

3. The sickness of the principal or some uncontrollable circumstance which prevented his appearance at court, and it must, in every such case, be shown that his failure to appear arose from no fault on his part.

4. Failure to present an indictment or information at the first term of the court which may be held after the principal has been admitted to bail, in a case where the party was bound over before indictment or information, and the prosecution has not been continued by order of the court.

5. The incarceration of the principal in any jurisdiction in the United States. A surety exonerated under (5) remains obligated to pay costs of court, and any reasonable and necessary costs incurred by a county to secure the return of the principal.

(B). For other good cause shown, the court in its discretion may remit to the surety all or part of the amount of the bond after deducting the costs of court and any reasonable necessary costs to the county for the return of the principal.

#### **Section 6. {Severability}**

#### **Section 7. {Effective Date}**

*Adopted by the Criminal Justice Task Force at the States and Nation Policy Summit, December 4, 2004. Approved by the ALEC Board of Directors January 7, 2005.*

**About Us and ALEC EXPOSED.** The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish [www.PRWatch.org](http://www.PRWatch.org), [www.SourceWatch.org](http://www.SourceWatch.org), and now [www.ALECExposed.org](http://www.ALECExposed.org). For more information contact: [editor@prwatch.org](mailto:editor@prwatch.org) or 608-260-9713.

### Center for Media and Democracy's quick summary:

This Act purports to prevent "fly by night" bail-bond operations from operating in a state, but in reality is likely to benefit large bail bond corporations that have more political influence. Typically, an accused person pays a bondsman 10% of their bail, with the understanding that the bondsman is liable for the full amount of the bail if the person fails to appear at court; this Act states that a bail bondsman cannot issue new bonds if it fails to pay the bail owed within a particular timeframe. However, this Act does not prohibit a court from setting aside the amount owed by a bail bondsman; there is a long history of bail-bondsmen successfully influencing judges and courts, so more powerful and influential bail bond companies might still avoid these obligations in the first place, if a court sets aside the amount they owe. Also notable are the provisions under which the bondsman's debts can be forgiven (Sect. 5); if for any reason a bond contract is found invalid, even if it has nothing to do with the bondsman, the debt is forgiven.