

AMENDMENT TO H.R. 418
OFFERED BY MR. SESSIONS OF TEXAS

At the end of title I, add the following:

1 **SEC. 105. DELIVERY BONDS.**

2 (a) DEFINITIONS.—For purposes of this section:

3 (1) DELIVERY BOND.—The term “delivery
4 bond” means a written suretyship undertaking for
5 the surrender of an individual against whom the De-
6 partment of Homeland Security has issued an order
7 to show cause or a notice to appear, the performance
8 of which is guaranteed by an acceptable surety on
9 Federal bonds.

10 (2) PRINCIPAL.—The term “principal” means
11 an individual who is the subject of a bond.

12 (3) SURETYSHIP UNDERTAKING.—The term
13 “suretyship undertaking” means a written agree-
14 ment, executed by a bonding agent on behalf of a
15 surety, which binds all parties to its certain terms
16 and conditions and which provides obligations for
17 the principal and the surety while under the bond
18 and penalties for forfeiture to ensure the obligations
19 of the principal and the surety under the agreement.



1 (4) BONDING AGENT.—The term “bonding
 2 agent” means any individual properly licensed, ap-
 3 proved, and appointed by power of attorney to exe-
 4 cute or countersign surety bonds in connection with
 5 any matter governed by the Immigration and Na-
 6 tionality Act as amended (8 U.S.C. 1101, et seq.),
 7 and who receives a premium for executing or
 8 countersigning such surety bonds.

9 (5) SURETY.—The term “surety” means an en-
 10 tity, as defined by, and that is in compliance with,
 11 sections 9304 through 9308 of title 31, United
 12 States Code, that agrees—

13 (A) to guarantee the performance, where
 14 appropriate, of the principal under a bond;

15 (B) to perform the bond as required; and

16 (C) to pay the face amount of the bond as
 17 a penalty for failure to perform.

18 (b) VALIDITY, AGENT NOT CO-OBLIGOR, EXPIRA-
 19 TION, RENEWAL, AND CANCELLATION OF BONDS.—

20 (1) VALIDITY.—Delivery bond undertakings are
 21 valid if such bonds—

22 (A) state the full, correct, and proper
 23 name of the alien principal;

24 (B) state the amount of the bond;



1 (C) are guaranteed by a surety and
2 countersigned by an agent who is properly ap-
3 pointed;

4 (D) bond documents are properly executed;
5 and

6 (E) relevant bond documents are properly
7 filed with the Secretary of Homeland Security.

8 (2) BONDING AGENT NOT CO-OBLIGOR, PARTY,
9 OR GUARANTOR IN INDIVIDUAL CAPACITY, AND NO
10 REFUSAL IF ACCEPTABLE SURETY.—Section
11 9304(b) of title 31, United States Code, is amended
12 by adding at the end the following: “Notwith-
13 standing any other provision of law, no bonding
14 agent of a corporate surety shall be required to exe-
15 cute bonds as a co-obligor, party, or guarantor in an
16 individual capacity on bonds provided by the cor-
17 porate surety, nor shall a corporate surety bond be
18 refused if the corporate surety appears on the cur-
19 rent Treasury Department Circular 570 as a com-
20 pany holding a certificate of authority as an accept-
21 able surety on Federal bonds and attached to the
22 bond is a currently valid instrument showing the au-
23 thority of the bonding agent of the surety company
24 to execute the bond.”.



1 (3) EXPIRATION.—A delivery bond undertaking
2 shall expire at the earliest of—

3 (A) 1 year from the date of issue;

4 (B) at the cancellation of the bond or sur-
5 render of the principal; or

6 (C) immediately upon nonpayment of the
7 renewal premium.

8 (4) RENEWAL.—Delivery bonds may be re-
9 newed annually, with payment of proper premium to
10 the surety, if there has been no breach of conditions,
11 default, claim, or forfeiture of the bond. Notwith-
12 standing any renewal, when the alien is surrendered
13 to the Secretary of Homeland Security for removal,
14 the Secretary shall cause the bond to be canceled.

15 (5) CANCELLATION.—Delivery bonds shall be
16 canceled and the surety exonerated—

17 (A) for nonrenewal after the alien has been
18 surrendered to the Department of Homeland
19 Security for removal;

20 (B) if the surety or bonding agent provides
21 reasonable evidence that there was misrepresen-
22 tation or fraud in the application for the bond;

23 (C) upon the death or incarceration of the
24 principal, or the inability of the surety to
25 produce the principal for medical reasons;



1 (D) if the principal is detained by any law
2 enforcement agency of any State, county, city,
3 or any political subdivision thereof;

4 (E) if it can be established that the alien
5 departed the United States of America for any
6 reason without permission of the Secretary of
7 Homeland Security, the surety, or the bonding
8 agent;

9 (F) if the foreign state of which the prin-
10 cipal is a national is designated pursuant to
11 section 244 of the Act (8 U.S.C. 1254a) after
12 the bond is posted; or

13 (G) if the principal is surrendered to the
14 Department of Homeland Security, removal by
15 the surety or the bonding agent.

16 (6) SURRENDER OF PRINCIPAL; FORFEITURE
17 OF BOND PREMIUM.—

18 (A) SURRENDER.—At any time, before a
19 breach of any of the bond conditions, if in the
20 opinion of the surety or bonding agent, the
21 principal becomes a flight risk, the principal
22 may be surrendered to the Department of
23 Homeland Security for removal.



1 (B) FORFEITURE OF BOND PREMIUM.—A
2 principal may be surrendered without the re-
3 turn of any bond premium if the principal—

4 (i) changes address without notifying
5 the surety, the bonding agent, and the Sec-
6 retary of Homeland Security in writing
7 prior to such change;

8 (ii) hides or is concealed from a sur-
9 ety, a bonding agent, or the Secretary;

10 (iii) fails to report to the Secretary as
11 required at least annually; or

12 (iv) violates the contract with the
13 bonding agent or surety, commits any act
14 that may lead to a breach of the bond, or
15 otherwise violates any other obligation or
16 condition of the bond established by the
17 Secretary.

18 (7) CERTIFIED COPY OF BOND AND ARREST
19 WARRANT TO ACCOMPANY SURRENDER.—

20 (A) IN GENERAL.—A bonding agent or
21 surety desiring to surrender the principal—

22 (i) shall have the right to petition the
23 Secretary of Homeland Security or any
24 Federal court, without having to pay any



1 fees or court costs, for an arrest warrant
2 for the arrest of the principal;

3 (ii) shall forthwith be provided 2 cer-
4 tified copies each of the arrest warrant and
5 the bond undertaking, without having to
6 pay any fees or courts costs; and

7 (iii) shall have the right to pursue, ap-
8 prehend, detain, and surrender the prin-
9 cipal, together with certified copies of the
10 arrest warrant and the bond undertaking,
11 to any Department of Homeland Security
12 detention official or Department detention
13 facility or any detention facility authorized
14 to hold Federal detainees.

15 (B) EFFECTS OF DELIVERY.—Upon sur-
16 render of a principal under subparagraph
17 (A)(iii)—

18 (i) the official to whom the principal
19 is surrendered shall detain the principal in
20 custody and issue a written certificate of
21 surrender; and

22 (ii) the Secretary of Homeland Secu-
23 rity shall immediately exonerate the surety
24 from any further liability on the bond.



1 (8) FORM OF BOND.—Delivery bonds shall in
2 all cases state the following and be secured by a cor-
3 porate surety that is certified as an acceptable sur-
4 ety on Federal bonds and whose name appears on
5 the current Treasury Department Circular 570:

6 “(A) BREACH OF BOND; PROCEDURE, FOR-
7 FEITURE, NOTICE.—

8 “(i) If a principal violates any condi-
9 tions of the delivery bond, or the principal
10 is or becomes subject to a final administra-
11 tive order of deportation or removal, the
12 Secretary of Homeland Security shall—

13 “(I) immediately issue a warrant
14 for the principal’s arrest and enter
15 that arrest warrant into the National
16 Crime Information Center (NCIC)
17 computerized information database;

18 “(II) order the bonding agent
19 and surety to take the principal into
20 custody and surrender the principal to
21 any one of 10 designated Department
22 of Homeland Security ‘turn-in’ cen-
23 ters located nationwide in the areas of
24 greatest need, at any time of day dur-
25 ing 15 months after mailing the ar-



1 rest warrant and the order to the
2 bonding agent and the surety as re-
3 quired by subclause (III), and imme-
4 diately enter that order into the Na-
5 tional Crime Information Center
6 (NCIC) computerized information
7 database; and

8 “(III) mail 2 certified copies each
9 of the arrest warrant issued pursuant
10 to subclause (I) and 2 certified copies
11 each of the order issued pursuant to
12 subclause (II) to only the bonding
13 agent and surety via certified mail re-
14 turn receipt to their last known ad-
15 dresses.

16 “(ii) Bonding agents and sureties
17 shall immediately notify the Secretary of
18 Homeland Security of their changes of ad-
19 dress and/or telephone numbers.

20 “(iii) The Secretary of Homeland Se-
21 curity shall establish, disseminate to bond-
22 ing agents and sureties, and maintain on a
23 current basis a secure nationwide toll-free
24 list of telephone numbers of Department of
25 Homeland Security officials, including the



1 names of such officials, that bonding
2 agents, sureties, and their employees may
3 immediately contact at any time to discuss
4 and resolve any issue regarding any prin-
5 cipal or bond, to be known as ‘Points of
6 Contact’.

7 “(iv) A bonding agent or surety shall
8 have full and complete access, free of
9 charge, to any and all information, elec-
10 tronic or otherwise, in the care, custody,
11 and control of the United States Govern-
12 ment or any State or local government or
13 any subsidiary or police agency thereof re-
14 garding the principal that may be helpful
15 in complying with section 105 of the
16 REAL ID Act of 2005 that the Secretary
17 of Homeland Security, by regulations sub-
18 ject to approval by Congress, determines
19 may be helpful in locating or surrendering
20 the principal. Beyond the principal, a
21 bonding agent or surety shall not be re-
22 quired to disclose any information, includ-
23 ing but not limited to the arrest warrant
24 and order, received from any governmental



1 source, any person, firm, corporation, or
2 other entity.

3 “(v) If the principal is later arrested,
4 detained, or otherwise located outside the
5 United States and the outlying possessions
6 of the United States (as defined in section
7 101(a) of the Immigration and Nationality
8 Act), the Secretary of Homeland Security
9 shall—

10 “(I) immediately order that the
11 surety is completely exonerated, and
12 the bond canceled; and

13 “(II) if the Secretary of Home-
14 land Security has issued an order
15 under clause (i), the surety may re-
16 quest, by written, properly filed mo-
17 tion, reinstatement of the bond. This
18 subclause may not be construed to
19 prevent the Secretary of Homeland
20 Security from revoking or resetting a
21 bond at a higher amount.

22 “(vi) The bonding agent or surety
23 must—

24 “(I) during the 15 months after
25 the date the arrest warrant and order



1 were mailed pursuant to clause
2 (i)(III) surrender the principal one
3 time; or

4 “(II)(aa) provide reasonable evi-
5 dence that producing the principal
6 was prevented—

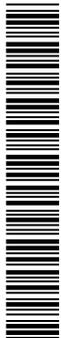
7 “(aaa) by the principal’s ill-
8 ness or death;

9 “(bbb) because the principal
10 is detained in custody in any city,
11 State, country, or any political
12 subdivision thereof;

13 “(ccc) because the principal
14 has left the United States or its
15 outlying possessions (as defined
16 in section 101(a) of the Immigra-
17 tion and Nationality Act (8
18 U.S.C. 1101(a)); or

19 “(ddd) because required no-
20 tice was not given to the bonding
21 agent or surety; and

22 “(bb) establish by affidavit that
23 the inability to produce the principal
24 was not with the consent or conniv-
25 ance of the bonding agent or surety.



1 “(vii) If compliance occurs more than
2 15 months but no more than 18 months
3 after the mailing of the arrest warrant and
4 order to the bonding agent and the surety
5 required under clause (i)(III), an amount
6 equal to 25 percent of the face amount of
7 the bond shall be assessed as a penalty
8 against the surety.

9 “(viii) If compliance occurs more than
10 18 months but no more than 21 months
11 after the mailing of the arrest warrant and
12 order to the bonding agent and the surety
13 required under clause (i)(III), an amount
14 equal to 50 percent of the face amount of
15 the bond shall be assessed as a penalty
16 against the surety.

17 “(ix) If compliance occurs more than
18 21 months but no more than 24 months
19 after the mailing of the arrest warrant and
20 order to the bonding agent and the surety
21 required under clause (i)(III), an amount
22 equal to 75 percent of the face amount of
23 the bond shall be assessed as a penalty
24 against the surety.



1 “(x) If compliance occurs 24 months
2 or more after the mailing of the arrest
3 warrant and order to the bonding agent
4 and the surety required under clause
5 (i)(III), an amount equal to 100 percent of
6 the face amount of the bond shall be as-
7 sessed as a penalty against the surety.

8 “(xi) If any surety surrenders any
9 principal to the Secretary of Homeland Se-
10 curity at any time and place after the pe-
11 riod for compliance has passed, the Sec-
12 retary of Homeland Security shall cause to
13 be issued to that surety an amount equal
14 to 50 percent of the face amount of the
15 bond: *Provided, however,* That if that sur-
16 ety owes any penalties on bonds to the
17 United States, the amount that surety
18 would otherwise receive shall be offset by
19 and applied as a credit against the amount
20 of penalties on bonds it owes the United
21 States, and then that surety shall receive
22 the remainder of the amount to which it is
23 entitled under this subparagraph, if any.

24 “(xii) All penalties assessed against a
25 surety on a bond, if any, shall be paid by



1 the surety no more than 27 months after
2 the mailing of the arrest warrant and
3 order to the bonding agent and the surety
4 required under clause (i)(III).

5 “(B) The Secretary of Homeland Security
6 may waive penalties or extend the period for
7 payment or both, if—

8 “(i) a written request is filed with the
9 Secretary of Homeland Security; and

10 “(ii) the bonding agent or surety pro-
11 vides an affidavit that diligent efforts were
12 made to effect compliance of the principal.

13 “(C) COMPLIANCE; EXONERATION; LIMITA-
14 TION OF LIABILITY.—

15 “(i) COMPLIANCE.—A bonding agent
16 or surety shall have the absolute right to
17 locate, apprehend, arrest, detain, and sur-
18 render any principal, wherever he or she
19 may be found, who violates any of the
20 terms and conditions of his or her bond.

21 “(ii) EXONERATION.—Upon satisfying
22 any of the requirements of the bond, the
23 surety shall be completely exonerated.

24 “(iii) LIMITATION OF LIABILITY.—
25 Notwithstanding any other provision of



1 law, the total liability on any surety under-
2 taking shall not exceed the face amount of
3 the bond.”.

4 (c) EFFECTIVE DATE.—The provisions of this section
5 shall take effect on the date of the enactment of this Act
6 and shall apply to bonds and surety undertakings executed
7 before, on, or after the date of the enactment of this Act.

8 **SEC. 106. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.**

9 (a) IN GENERAL.—Section 236(a)(2) of the Immi-
10 gration and Nationality Act (8 U.S.C. 1226(a)(2)) is
11 amended to read as follows:

12 “(2) subject to such reasonable regulations as
13 the Secretary of Homeland Security may prescribe,
14 shall permit agents, servants, and employees of cor-
15 porate sureties to visit in person with individuals de-
16 tained by the Secretary of and, subject to section
17 241(a)(8), may release the alien on a delivery bond
18 of at least \$10,000, with security approved by the
19 Secretary, and containing conditions and procedures
20 prescribed by section 105 of the REAL ID Act of
21 2005 and by the Secretary, but the Secretary shall
22 not release the alien on or to his own recognizance
23 unless an order of an immigration judge expressly
24 finds and states in a signed order to release the
25 alien to his own recognizance that the alien is not



1 a flight risk and is not a threat to the United
2 States”.

3 (b) REPEAL.—Section 286(r) of the Immigration and
4 Nationality Act (8 U.S.C. 1356(r)) is repealed.

5 (c) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall take effect on the date of the enact-
7 ment of this Act.

8 **SEC. 107. DETENTION OF ALIENS DELIVERED BY BONDS-**
9 **MEN.**

10 (a) IN GENERAL.—Section 241(a) of the Immigra-
11 tion and Nationality Act (8 U.S.C. 1231(a)) is amended
12 by adding at the end the following:

13 “(8) EFFECT OF PRODUCTION OF ALIEN BY
14 BONDSMAN.—Notwithstanding any other provision
15 of law, the Secretary of Homeland Security shall
16 take into custody any alien subject to a final order
17 of removal, and cancel any bond previously posted
18 for the alien, if the alien is produced within the pre-
19 scribed time limit by the obligor on the bond wheth-
20 er or not the Department of Homeland Security ac-
21 cepts custody of the alien. The obligor on the bond
22 shall be deemed to have substantially performed all
23 conditions imposed by the terms of the bond, and
24 shall be released from liability on the bond, if the
25 alien is produced within such time limit.”.



1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect on the date of the enact-
3 ment of this Act and shall apply to all immigration bonds
4 posted before, on, or after such date.

