

On-demand bond claims

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APPLICABLE LEGISLATION

- ✓ Banking, Insurance and Pension Funds Law
- ✓ General Customs Law and related regulations
- ✓ Public Procurement and Acquisitions Law
- ✓ Gambling, Casinos and Slot Machines Exploitation Law
- ✓ Decree on Negotiable Credit Notes.
- ✓ Civil Code.

Guarantees for the Public or Private Sectors

The most required ones are:

- Public Procurement
- Customs
- Gambling Casinos and slot machines
- Other.

Characteristics:

- ✓ Unconditional (on-demand)
- ✓ Joint and several
- ✓ Irrevocable
- ✓ Not entitled to the right of excussion
- ✓ Automatically enforceable

ENFORCEMENT PERIOD

- Surety bonds enforcement is immediate provided that a notarized claim notice or court order is addressed to the insurer's domicile up to the fifteenth working day after maturity, as provided for in Section 1898 of the Civil Code.

Public Procurement Law

Section 33

The law establishes that the guarantees accepted by public Entities shall be unconditional (on demand), joint and several, irrevocable, automatically enforceable in the country on first demand made by the Entity under the issuers' responsibility. The issuer companies shall be under the direct supervision of the Superintendence of Banks, Insurance and Pension Funds and authorized to issue guarantees.

Public Procurement Law

Section 33

By virtue of automatic enforcement on first demand, the issuer companies are not entitled to the benefit of excussion and shall immediately honor the bond within the term of three days.

All delays create joint and several obligations for the bond issuer and the contractor, and accrue lawful interests in favor of the Entity.

Dispute Resolution

- Any dispute among the parties arising out of the enforcement, construction, termination, non-existence, ineffectiveness or invalidity of the contract will be resolved through mediation or arbitration, according to the parties' agreement.
- Disputes arising out of contract nullity may only be submitted to arbitration.

Enforcement of guarantees

Performance bonds will be called on in the following cases:

- If the contractor does not renew them .
- If the entity's decision to terminate the contract for reasons attributable to the contractor is accepted.
- If three working days after the Entity's claim the outstanding balance remains unpaid by the contractor.

Enforcement of guarantees

Advance payment bonds will be called on in the following cases:

- ❑ If the contractor does not renew them.
- ❑ When after contract termination or declaration of nullity there is a grounded risk of non compliance with the amortization or payment, even after a dispute resolution method was sought.

The aforementioned assumptions are exclusively referred to the public Entity actions, so they do not affect automatic enforcement and the obligation to pay of the issuer companies which are obliged to honor the bonds on the Entity's first demand within a three-day term, not being entitled to request the validity of the claim, the benefit of excussion or the submission of supporting documentation.