

Article 76.

Actions on Bonds.

§ 58-76-1. Bonds in actions payable to court officer may be sued on in name of State.

Bonds and other obligations taken in the course of any proceeding at law, under the direction of the court, and payable to any clerk, commissioner, or officer of the court, for the benefit of the suitors in the cause, or others having an interest in such obligation, may be put in suit in the name of the State. (R.C., c. 13, s. 11; Code, s. 51; Rev., s. 280; C.S., s. 353.)

§ 58-76-5. Liability and right of action on official bonds.

Every person injured by the neglect, misconduct, or misbehavior in office of any register, surveyor, sheriff, coroner, county treasurer, or other officer, may institute a suit or suits against said officer or any of them and their sureties upon their respective bonds for the due performance of their duties in office in the name of the State, without any assignment thereof; and no such bond shall become void upon the first recovery, or if judgment is given for the defendant, but may be put in suit and prosecuted from time to time until the whole penalty is recovered; and every such officer and the sureties on the officer's official bond shall be liable to the person injured for all acts done by said officer by virtue or under color of that officer's office. (1793, c. 384, s. 1, P.R.; 1825, c. 9, P.R.; 1833, c. 17; R.C., c. 78, s. 1; 1869-70, c. 169, s. 10; Code, s. 1883; Rev., s. 281; C.S., s. 354; 1973, c. 108, s. 59; 1997-14, s. 2; 2010-96, s. 29.)

§ 58-76-10. Complaint must show party in interest; election to sue officer individually.

Any person who brings suit in manner aforesaid shall state in his complaint on whose relation and in whose behalf the suit is brought, and he shall be entitled to receive to his own use the money recovered; but nothing herein contained shall prevent such person from bringing at his election an action against the officer to recover special damages for his injury. (1793, c. 384, ss. 2, 3, P.R.; R.C., c. 78, s. 2; 1869-70, c. 169, s. 11; Code, s. 1884; Rev., s. 282; C.S., s. 355.)

§ 58-76-15. Summary remedy on official bond.

When a sheriff, coroner, county or town treasurer, or other officer, collects or receives any money by virtue or under color of his office, and on demand fails to pay the same to the person entitled to require the payment thereof, the person thereby aggrieved may move for judgment in the superior court against such officer and his sureties for any sum demanded; and the court shall try the same and render judgment at the session when the motion shall be made, but 10 days' notice in writing of the motion must have been previously given. (1819, c. 1002, P.R.; R.C., c. 78, s. 5; 1869-70, c. 169, s. 14; 1876-7, c. 41, s. 2; Code, s. 1889; Rev., s. 283; C.S., s. 356; 1973, c. 108, s. 60; 2017-158, s. 17.)

§ 58-76-20. Officer unlawfully detaining money liable for damages.

When money received as aforesaid is unlawfully detained by any of said officers, and the same is sued for in any mode whatever, the plaintiff is entitled to recover, besides the sum detained, damages at the rate of twelve per centum (12%) per annum from the time of detention until payment. (1819, c. 1002, s. 2, P.R.; R.C., c. 78, s. 9; 1868-9, c. 169; Code, s. 1890; Rev., s. 284; C.S., s. 357.)

§ 58-76-25. Evidence against principal admissible against sureties.

In actions brought upon the official bonds of sheriffs, coroners, or other public officers, and also upon the bonds of executors, administrators, collectors or guardians, when it may be necessary for the plaintiff to prove any default of the principal obligors, any receipt or acknowledgment of such obligors, or any other matter or thing which by law would be admissible and competent for or toward proving the same as against him, shall in like manner be admissible and competent as presumptive evidence only against all or any of his sureties who may be defendants with or without him in said actions. (1844, c. 38; R.C., c. 44, s. 10; 1881, c. 8; Code, s. 1345; Rev., s. 285; C.S., s. 358; 1973, c. 108, s. 61; 2017-158, s. 18.)

§ 58-76-30. Officer liable for negligence in collecting debt.

When a claim is placed in the hands of any sheriff or coroner for collection, and he does not use due diligence in collecting the same, he shall be liable for the full amount of the claim notwithstanding the debtor may have been at all times and is then able to pay the amount thereof. (1844, c. 64; R.C., c. 78, s. 3; 1869-70, c. 169, s. 12; Code, s. 1888; Rev., s. 286; C.S., s. 359; 1973, c. 108, s. 62.)