



HANDBOOK

Ohio County Commissioners

Published by: County Commissioners Association of Ohio

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CHAPTER 7

ELECTED OFFICIAL AND EMPLOYEE BONDS

Latest Revision
January, 2007

7.01 GENERAL INFORMATION ON ELECTED OFFICIAL BONDS

Before taking office, most county elected officials must give bond for the faithful discharge of their official duties and for the other duties of their offices as specified in law. The bond must be an individual bond for each elected official as opposed to a blanket bond covering a group of elected officials.

Even though the Ohio Revised Code (ORC) does not specifically state the bond shall be an individual bond, it was determined in Attorney General Opinion issued in 1965 (OAG 65-087) that if the statute refers to either of the following two provisions, the officer is required to file an individual bond to qualify for office and may not be included under a blanket bond:

1. An officer shall file a performance bond before entering upon the discharge of the duties of his office, or
2. An office shall be deemed vacant if a performance bond is not filed by the officer within a reasonable time after he has assumed the duties of such office.

The Attorney General Opinion (OAG 65-087) also states that no where in the Ohio Revised Code does it authorize an elected official to file a bond jointly with another elected official, or be covered under a blanket bond with a group of elected officials. ORC Section 3.06(B) generally applies to the authority of various officials to procure a blanket bond for various employees or officers in the event that an individual bond is not

required. As a result of this language, the opinion states that county elected officials may not be included in a blanket bond.

Individual bonds are issued by insurance and surety companies licensed in Ohio under Ohio Revised Code (ORC) Chapter 3929. The expense or premium of the bonds is paid by the board of county commissioners from the county general fund for all of the following county officials: commissioners, prosecuting attorney, sheriff, engineer, recorder, treasurer, auditor, coroner, and clerk of the court of common pleas.

Ohio law generally requires bonds to be given with the oath of office and filed with a designated official. The form of most bonds includes the oath of office required by Article XV, Section 7 of the Ohio Constitution. In addition ORC Sections 3.20 - 3.30 specifies additional requirements for bonds and the oath of office. For more information on bonds of county officials, see Chapter 3 Section 3.07 of the *Handbook*.

In addition, most of county elected officials may require their employees to give bond in an amount fixed by the official. This bond is conditioned upon the faithful performance of their official duties, is approved by the official and is kept in the county treasurer's office.

Table 7-1 at the end of this Chapter contains essential information on requirements for bonds for county elected officials.

7.02 DIFFERENCE BETWEEN BONDS AND OTHER INSURANCE COVERAGE

There are three types of insurance coverage: liability, property, and bond coverage. Each type of coverage is important and very different in how they protect the county.

Bond coverage (individual or blanket) is a specific type of insurance, often required by law, to protect county funds. Bonds reimburse the county for losses caused by an elected official or an employee of the county who commits a fraudulent or dishonest act or for losses caused by officials failing to faithfully perform their duties. The county is the entity which has the loss. The bond company, usually called a surety, will make the county whole again by replacing the funds up to the total amount of the bond.

Liability insurance coverage is used to protect the covered party (county, elected official, boards, employees, and/or volunteers), for claims alleging the covered party committed a negligent act or made an improper decision which caused bodily injury, personal injury, and/or property damage to a third party. In situations where liability insurance is applicable, a third party incurs the loss and liability insurance pays for the portion of the loss that is covered by insurance and is caused by the negligence of the county. However, liability coverage is not permitted by law to cover criminal acts, which would include fraudulent or dishonest acts.

Property coverage is another type of insurance that pays for losses incurred by the county as a result of fire, windstorms and water damage. Damaged property is either repaired or replaced with like kind, size and quality.

When bond coverage is used to pay the county for a loss, the elected official or employee responsible for the loss is obligated to reimburse the bond company. Liability and property insurance coverage will pay on behalf of the county for a loss caused by their negligence. However, the county is only responsible for the deductible amount agreed to at the beginning of the coverage period. The insurance company will pay the balance of the claim up to the policy limit.

7.03 PROSECUTING ATTORNEY'S DUTIES - ORC 309.11

The prosecuting attorney is to prepare official bonds in proper legal form and is to see that the proper official accepts the bond and that the signing and endorsements are in compliance with the law. The prosecuting attorney must certify that the bond is adequate. If the prosecuting attorney is not able to perform these duties, because of vacancy in the office, absence, or disability, the probate judge is the official charged with this responsibility (ORC 309.11).

7.04 DEPOSITORIES OF BONDS - ORC 3.33

Table 7-1 shows the offices where bonds must be deposited along with the oath of office. These officials must accept the bond and record it in a book that is to be used for this purpose (ORC 3.33).

A certified transcript of the record of this deposited bond is prima-facie (on-its-face) evidence of the execution and existence of the bond.

7.05 OPTIONAL FORM OF BOND

While most elected official individual bonds are issued by an Ohio licensed surety or insurance company, for most officials, the law authorizes another method to provide the required bond. The bond may be provided by two or more adult freeholders owning real estate in value that is double the amount of a bond issued by a surety or insurance company, over and above any encumbrances owed to the state. This option, for a "real estate bond" is available to the following county elected officials: commissioners, prosecuting attorney, sheriff, recorder, engineer, auditor, and clerk of the court of common pleas. This option is not available to county treasurers.

7.06 BLANKET BONDS FOR DEPUTIES AND CLERKS - ORC 3.06

Elected officials may also require bonds for deputies, clerks, and other employees. These bonds may take the form of a blanket bond covering all officers, deputies, clerks, and other employees unless there is a specific requirement that a deputy, clerk or other employee obtain an individual bond. A blanket bond also cannot include tax collectors or treasurers, by whatever designation they may be known.

When determining if a blanket bond can be used, check the statute for language stating the employee "shall" provide a bond before entering upon the discharge of the duties of

the position as opposed to language stating the elected official “may” require a bond to be given. If the statute states the elected official “may” require a bond, that individual may be covered under a blanket bond.

The purpose of the blanket bond is to indemnify against:

1. Failure to perform duties faithfully.
2. Failure to account for money or property received.
3. For fraudulent or dishonest acts.

7.07 OTHER PROVISIONS OF OHIO REVISED CODE RELATING TO BONDS

A number of Ohio Revised Code sections have been referenced in this section of the handbook. There are numerous other sections that may apply to specific bonding requirements for officials, officers, and employees, so consultation with the prosecutor is always advised. For example, the following are some additional references to bonding that are provided for in law:

1. County Building Commissioner – ORC 152.24, 152.24
2. County Park Commissioner – ORC 1545.05, 1545.13
3. Director of Job and Family Services – ORC 329.01
4. Executive Director of Children Services – ORC 5153.10, 5153.13
5. County Home Superintendent/Administrator – ORC 5155.04
6. Dog Warden – ORC 955.12
7. County Juvenile Rehabilitation Facility Superintendent – ORC 2151.70
8. Bailiff of Court of Common Pleas – ORC 2301.12(C), 2301.16
9. Clerk of County Court – ORC 1907.20
10. County Bridge Commissioner – ORC 5539.05

For additional information, also refer to the [Ohio Compliance Supplement](#) published by the Auditor of State.

TABLE 7-1

ELECTED OFFICIAL BONDS AND REQUIREMENTS

OFFICE	ORC REFERENCE	DEPOSITED WITH	AMOUNT OF BOND	SURETY CO. APPROVED BY	PURPOSE/CONDITIONS
AUDITOR	319.02	TREASURER	NOT LESS THAN \$5,000 OR MORE THAN \$20,000 AS FIXED BY COUNTY COMMISSIONERS	COUNTY COMMISSIONERS	MUST BE MADE ON OR BEFORE TAKE OFFICE; BOARD MAY VACATE OFFICE FOR NON-COMPLIANCE; GIVEN FOR FAITHFUL DISCHARGE OF DUTIES.
CLERK OF COUNTY COURT	1907.20		NOT LESS THAN \$5,000, AS DETERMINED BY THE BOARD OF COUNTY COMMISSIONERS	COUNTY COMMISSIONERS	FAITHFUL PERFORMANCE OF DUTIES
CLERK--COURT OF COMMON PLEAS	2303.02	TREASURER	NOT LESS THAN \$10,000 OR MORE THAN \$40,000 AS DETERMINED BY COUNTY COMMISSIONERS	COUNTY COMMISSIONERS	ENTER AND RECORD ORDERS; JUDGEMENTS AND PROCEEDINGS OF COURT; FAITHFUL, IMPARTIAL EXECUTION OF DUTIES; PAY OVER MONIES RECEIVED IN OFFICIAL CAPACITY; COURT DETERMINES AND ORDERS IF ADDITIONAL BOND NECESSARY
COMMISSIONER	305.04	TREASURER	NOT LESS THAN \$5,000	PROBATE JUDGE	FAITHFUL DISCHARGE OF DUTIES; DAMAGE TO COUNTY DUE TO FAILURE IN DUTIES
CORONER	313.03	AUDITOR	NOT LESS THAN \$5,000 OR MORE THAN \$50,000 AS FIXED BY COUNTY COMMISSIONERS	COUNTY COMMISSIONERS	FAITHFUL PERFORMANCE OF DUTIES
COUNTY COURT JUDGE Bonds for county court judges repealed by House Bill 438 of the 121st General Assembly; effective November 1st, 1996	1907.14	CLERK OF COURT OF COMMON PLEAS	\$5,000	JUDGE OF COMMON PLEAS COURT	MADE WITHIN 10 DAYS AFTER TAKING OFFICE; APPROVED BY COMMON PLEAS COURT JUDGE; FAITHFUL PERFORMANCE OF DUTIES

OFFICE	ORC REFERENCE	DEPOSITED WITH	AMOUNT OF BOND	SURETY CO. APPROVED BY	PURPOSE/CONDITIONS
ENGINEER	315.03	TREASURER	NOT LESS THAN \$2,000 OR MORE THAN \$10,000 AS FIXED BY COUNTY COMMISSIONERS	COUNTY COMMISSIONERS	FAITHFUL PERFORMANCE OF DUTIES
JUVENILE COURT JUDGE WHEN ACTING AS OWN CLERK	2151.12	TREASURER	DETERMINED BY BOARD OF COUNTY COMMISSIONERS--"SUFFICIENT SURETY"	COUNTY COMMISSIONERS	FAITHFUL PERFORMANCE OF DUTIES AS CLERK.
MUNICIPAL COURT CLERK	1901.31(D)	CITY TREASURER; IF COUNTY OPERATED COURT DEPOSITED WITH COUNTY TREASURER	NOT LESS THAN \$6,000 AS DETERMINED BY MUNICIPAL COURT JUDGES	No approval required.	DETERMINED BY MUNICIPAL COURT JUDGES; FAITHFUL PERFORMANCE OF DUTIES.
OFFICE	ORC REFERENCE	DEPOSITED WITH	AMOUNT OF BOND	SURETY CO. APPROVED BY	PURPOSE/CONDITIONS
PROBATE JUDGE	2101.03	TREASURER	NOT LESS THAN \$5,000	COUNTY COMMISSIONERS; IF TWO ARE ABSENT AUDITOR AND RECORDER APPROVE BOND	PAY OVER ALL MONIES RECEIVED IN OFFICIAL CAPACITY; ENTER AND RECORD JUDGMENTS, ORDERS AND PROCEEDINGS OF COURT; FAITHFUL, IMPARTIAL EXECUTION OF DUTIES; BOARD COULD REQUIRE ADDITIONAL BOND.
PROSECUTOR	309.03	TREASURER	NOT LESS THAN \$1,000 AS FIXED BY COURT OF COMMON PLEAS OR PROBATE COURT	COURT OF COMMON PLEAS OR PROBATE COURT	FAITHFUL DISCHARGE OF DUTIES; PAY OVER ALL MONIES RECEIVED IN OFFICIAL CAPACITY
PROSECUTOR (FOJ)	325.12(D)	TREASURER	NOT LESS THAN OFFICIAL SALARY, TO BE FIXED BY COURT OF COMMON PLEAS OR PROBATE COURT	COURT OF COMMON PLEAS OR PROBATE COURT	FAITHFUL DISCHARGE OF DUTIES; PAY OVER ALL MONIES RECEIVED IN OFFICIAL CAPACITY
RECORDER	317.02	TREASURER	NOT LESS THAN \$10,000 AS FIXED BY COUNTY COMMISSIONERS	COUNTY COMMISSIONERS	FAITHFUL PERFORMANCE OF DUTIES
SHERIFF	311.02	AUDITOR	NOT LESS THAN \$5,000 OR MORE THAN \$50,000 AS FIXED BY COUNTY COMMISSIONERS	COUNTY COMMISSIONERS	FAITHFUL PERFORMANCE OF DUTIES; COMMISSIONERS MAY REQUIRE ADDITIONAL SURETIES ON BOND OR NEW BOND

OFFICE	ORC REFERENCE	DEPOSITED WITH	AMOUNT OF BOND	SURETY CO. APPROVED BY	PURPOSE/CONDITIONS
SHERIFF (FOJ)	325.071	TREASURER	NOT LESS THAN SHERIFF'S ANNUAL SALARY AS DETERMINED BY COURT OF COMMON PLEAS OR PROBATE COURT	COURT OF COMMON PLEAS OR PROBATE COURT	A CONDITION OF OBTAINING FOJ ALLOWANCE; FAITHFUL DISCHARGE OF DUTIES AND TO PAY OVER ALL MONIES RECEIVED IN OFFICIAL CAPACITY
TREASURER	321.02	AUDITOR	FIXED BY COUNTY COMMISSIONERS	COUNTY COMMISSIONERS	CONDITIONED FOR PAYMENT OF MONIES TREASURER RECEIVES FOR STATE, COUNTY, TOWNSHIP, OR OTHER PURPOSES; COMMISSIONERS MAY REQUIRE ADDITIONAL BOND IF THEY DETERMINE PREVIOUS BOND IS NOT ADEQUATE OR WHEN IT IS DETERMINED THAT MORE MONEY WILL PASS THROUGH THE TREASURER THAN WOULD BE COVERED BY HIS BOND. ENTER TREASURERS' BOND IN JOURNAL WHEN THEY ACCEPT AND APPROVE IT. IF BOND IS NOT GIVEN, OFFICE IS DEEMED VACANT.