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# HANDBOOK

**Ohio County Commissioners**

*Published by: County Commissioners Association of Ohio*

209 East State Street • Columbus, Ohio 43215-4309

Phone: 614-221-5627 • Fax: 614-221-6986 • [www.ccao.org](http://www.ccao.org)

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## CHAPTER 7

# ELECTED OFFICIAL AND EMPLOYEE BONDS, COVERAGE DOCUMENTS, AND EMPLOYEE DISHONESTY AND FAITHFUL PERFORMANCE OF DUTY INSURANCE POLICIES

Latest Revision

April 2021

### 7.01 GENERAL INFORMATION ON ELECTED OFFICIAL BONDS, COVERAGE DOCUMENTS, AND EMPLOYEE DISHONESTY AND FAITHFUL PERFORMANCE OF DUTY INSURANCE POLICIES

Before taking office, most county elected officials and some employees and appointees must either: 1. Give a bond for the faithful discharge of their official duties and for the other duties of their offices as specified in law; or 2. Be covered by an “employee dishonesty and faithful performance of duty policy” pursuant to Ohio Revised Code (ORC) 3.061. “Employee dishonesty and faithful performance of duty policy” means a policy of insurance, or a coverage document issued by a joint self-insurance pool authorized under section [2744.081](#) of the Revised Code, to protect against losses that would otherwise be protected against under a surety bond and to protect against other losses as determined by the political subdivision.

A political subdivision (county) that does not adopt an employee dishonesty and faithful performance of duty policy in lieu of a bond shall continue to use the surety bonds as otherwise provided in Ohio law.

## 7.02 ELECTED OFFICIAL BONDS

Elected official bonds 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 nowhere 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.

### **7.03 DISHONESTY AND FAITHFUL PERFORMANCE OF DUTY POLICY IN LIEU OF BOND**

A political subdivision may adopt a policy, by ordinance or resolution, to allow for the use of an employee dishonesty and faithful performance of duty policy, rather than a surety bond that would otherwise be required by law to be given by any of the following:

1. The political subdivision;
2. An officer, employee, or appointee of the political subdivision;
3. Any other entity or individual, if the entity or individual is required by law to give a surety bond to the political subdivision.

The employee dishonesty and faithful performance of duty policy also may cover any other entity or individual as determined by the political subdivision.

Any officer, employee, or appointee otherwise required by law to give an individual surety bond to qualify for the office or employment before entering upon the discharge of duties imposed by the office or employment shall, before entering upon the discharge of duties imposed by the office or employment, either give the individual surety bond or be covered under an employee dishonesty and faithful performance of duty policy that is in effect and becomes applicable to the officer, employee, or appointee upon the beginning of the individual's term of office or employment.

Any officer, employee, or appointee otherwise required by law to maintain an individual surety bond to continue being entitled to discharge the duties of the office or employment may, during the individual's term or employment, become covered under an employee dishonesty and faithful performance of duty policy.

For a political subdivision that has adopted a policy as authorized under ORC 3.061, all of the following apply:

1. An officer, employee, or appointee otherwise required by law to give an individual surety bond shall not commence or continue the discharge of duties until coverage is documented as required by the legislative authority. A lack of coverage on the date on which the discharge of duties are commenced or continued by the individual shall render the office vacant and it shall be filled as required by law.
2. Notwithstanding any section of the Revised Code requiring an officer, employee, or appointee of a political subdivision to give bond before being entitled to enter upon the duties of the office or employment, an officer, employee, or appointee shall be considered qualified to hold the office or employment, without giving bond, on the date the oath of office is taken, certified, and filed as required by law.

3. Notwithstanding any section of the Revised Code requiring an officer, employee, or appointee of a political subdivision to maintain bond to continue being entitled to discharge the duties of the office or employment, an officer, employee, or appointee who becomes covered under an employee dishonesty and faithful performance of duty policy during the individual's term or employment and who remains covered under the employee dishonesty and faithful performance of duty policy for the duration of the individual's term or employment shall be considered qualified to hold the office or employment, without maintaining bond for the duration of the individual's term or employment as required by law.
4. Notwithstanding section [3.30](#) or any other section of the Revised Code that provides an office or employment is vacated upon the failure to file bond, the officer, employee, or appointee shall be entitled to enter upon the duties of the office or employment when the policy is in effect as provided in division (B) of this section and the oath is filed as provided in division (D)(2) of this section.
5. All officers, employees, or appointees who would otherwise be required to file a bond before commencing the discharge of duties shall be covered by and are subject to the employee dishonesty and faithful performance of duty policy instead of a surety bond requirement.
6. The coverage amount for an officer, employee, or appointee under an employee dishonesty and faithful performance of duty policy shall be equal to or greater than the maximum amount of the bond otherwise required by law. If no amount, or only a minimum amount, of coverage is specified in law for the particular officer, employee, or appointee, the amount of coverage shall be an amount agreed upon by the legislative authority or the authority otherwise designated by law to determine the amount of the bond.

#### **7.04 PROSECUTING ATTORNEY'S BOND 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).

#### **7.05 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.

### **7.06 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.

### **7.07 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.

### **7.08 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 JUDGEMENTS, 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	<p>NOT LESS THAN SHERIFF'S ANNUAL SALARY</p> <p>AS DETERMINED BY COURT OF COMMON PLEAS OR PROBATE COURT</p>	<p>COURT OF COMMON PLEAS OR PROBATE</p> <p>COURT</p>	<p>A CONDITION OF OBTAINING FOJ ALLOWANCE;</p> <p>FAITHFUL DISCHARGE OF DUTIES AND TO PAY OVER ALL MONIES RECEIVED IN OFFICIAL CAPACITY</p>
TREASURER	321.02	AUDITOR	FIXED BY COUNTY COMMISSIONERS	COUNTY COMMISSIONERS	<p>CONDITIONED FOR PAYMENT OF MONIES 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.</p>