



County Technical Assistance Service

Published on e-Li (<http://ctas-eli.ctas.tennessee.edu>)

October 20, 2021

Bonds

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Bonds

Reference Number: CTAS-31

An official bond is an instrument that requires the party or parties designated as sureties to pay a specified sum of money if the official who executes the bond fails to perform certain acts or performs wrongful and injurious acts in the office. In other words, an official bond is a written promise, made by a public official (1) to perform all the duties of the office, (2) to pay over to authorized persons all funds received in an official capacity, (3) to keep all records required by law, (4) to turn over to his or her successor all records, money, and property, and (5) to refrain from anything that is illegal, improper, or harmful while acting in an official capacity. If the official fails to perform the duties, violates the law, or commits a harmful act, the person who is injured may collect damages from the sureties on the official bond. The sureties must be surety companies doing business in Tennessee unless the county commission by two-thirds majority vote authorizes two individuals to act as good sureties instead of a surety company. T.C.A. §§ 8-19-111, 8-19-101, 8-19-301.

The bond protects the state, the county, and the citizens in the event the county official fails to perform his or her duties properly. The bond does not protect county officials from liability. If a payment is made under the bond, the county official's sureties may have a right to recover the amount paid from the county official. This action against the county official by the sureties is known as subrogation. The following county constitutional officials must execute a surety bond: county clerk, court clerks, sheriff, register, property assessor, and trustee. Also, bonds are required for the finance director, director of accounts and budgets, county auditor, constable, coroner, road commissioners, county surveyor, director of schools, purchasing agent, and notaries. A blanket bond is required for all county employees that are not otherwise covered. The specific bond amounts are set out in the table entitled [County Officials/Employees' Minimum Bond](#).

The form of official bonds is prescribed by the comptroller of the treasury, with the approval of the attorney general. T.C.A. § 8-19-101. Blank copies of official bonds, ready for use, are available from the comptroller, Division of Local Finance.

The official bond of every county public official must be conditioned in the following manner: T.C.A. § 8-19-111.

That if the _____ (principal) shall:

1. Faithfully perform the duties of the office of _____ of _____ County during such person's term of office or continuance therein; and
2. Pay over to the persons authorized by law to receive them, all moneys, properties, or things of value that may come into such principal's hands during such principal's term of office or continuance therein without fraud or delay, and shall faithfully and safely keep all records required in such principal's official capacity, and at the expiration of the term, or in case of resignation or removal from office, shall turn over to the successor all records and property which have come into such principal's hands, then this obligation shall be null and void; otherwise to remain in full force and effect.

Some counties also use "blanket bonds" for all of the county officeholders. T.C.A. § 8-19-101. Additionally, counties that have chosen to self-insure their liability under the GTLA may also elect to self-insure their risk of loss rather than obtain bonds or insurance. Such an election must be made by resolution, adopted by a 2/3 vote of the governing body. T.C.A. § 8-19-101.

Official bonds of the sheriff, county trustee, county clerk, and register of deeds must be approved by the county legislative body, recorded in the office of the register of deeds and transmitted to the county clerk for safekeeping. T.C.A. §§ 8-19-102, 8-19-103. Official bonds of assessors of property and persons vested by law with the authority to administer county highway and bridge funds must be approved by the county legislative body, recorded in the office of the county register of deeds, and transmitted to the county clerk for safekeeping. T.C.A. §§ 67-1-505, 54-4-103(c). Official bonds of clerks of court must be approved and certified by the court, entered into the minutes of the court, recorded in the office of register of deeds and transmitted to the county clerk for safekeeping. T.C.A. § 18-2-205. The official bond of the director of schools must be approved by the county mayor, recorded in the office of the register of deeds and transmitted to the office of the county clerk for safekeeping. T.C.A. §§ 49-2-102, 9-3-301. The official bonds of other county officials, constables, and county employees required to have bonds shall be approved by the county legislative body, recorded in the office of the register of deeds and transmitted

to the office of the county clerk for safekeeping. T.C.A. §§ 8-19-102, 8-19-103. Official bonds of officers which must be transmitted to the county clerk must be so transmitted for filing within forty days of election or twenty days after the term of office begins; all other bonds must be filed in the proper office within thirty (30) days after the election or within ten days after the term of office begins. T.C.A. § 8-19-115.

The register of deeds of each county must maintain a special record book in which each official bond is recorded unless the register is authorized to use a system of continuous recordings of all instruments. T.C.A. §§ 8-19-104, 8-13-108(d). The register of deeds must endorse on the bond the day and year on which it was recorded and sign the endorsement. Similarly, the county clerk, with respect to bonds filed for safekeeping in the office of county clerk, must endorse the filing date and sign the endorsement. Failure of the register or county clerk to endorse and sign the bond is a misdemeanor. T.C.A. § 8-19-116.

Any officer who is required by law to give bond and who fails to file it in the proper office within the time prescribed vacates the office. In such cases, the officer in whose office the bond is required to be filed must certify this failure to the appointing power. T.C.A. § 8-19-117. Upon the filing of a complaint alleging the failure of a county officer or constable to enter into an official bond as required by law, the circuit court clerk or the clerk and master having jurisdiction issues a summons that is served, together with a copy of the complaint, upon the county officer or constable in accordance with the Tennessee Rules of Civil Procedure. T.C.A. § 8-19-205. If the official fails or refuses to execute the required bond after receiving a copy of the complaint and a hearing, the court will enter a judgment declaring the office vacant, and the vacancy will be filled according to law. T.C.A. § 8-19-206. In addition, any officer required by law to give bond who performs any official act before the bond is approved and filed as required is guilty of a misdemeanor. T.C.A. § 8-19-119.

County officials must enter into a new bond at the beginning of each term. If the original of any bond is lost or destroyed, the record of the bond will be considered the original and suit may be instituted on the recorded bond. T.C.A. § 8-19-105. The county pays the premiums for official bonds and registration fees of county officials and employees. T.C.A. § 8-19-106. The constable pays all of the costs of obtaining and recording the official bond for his or her office unless the county legislative body votes to pay the cost of obtaining and recording the bond. T.C.A. § 8-10-106.

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