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TITLE 16
COUNTIES

Part
I. Preliminary Provisions (Reserved)
II. Creation, Alteration and Functions (Reserved)
III. Government and Administration

Enactment. Unless otherwise noted, the provisions of Title 16 were added November 22, 2011, P.L.431, No.106, effective immediately.

PART I
PRELIMINARY PROVISIONS
(Reserved)

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PART II
CREATION, ALTERATION AND FUNCTIONS
(Reserved)

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PART III
GOVERNMENT AND ADMINISTRATION

Subpart
A. General Provisions

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SUBPART A
GENERAL PROVISIONS

Chapter
11. General Provisions

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CHAPTER 11
GENERAL PROVISIONS

Subchapter
A. (Reserved)
B. Required Fiscal Security for Officers and Employees

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SUBCHAPTER A
(Reserved)

SUBCHAPTER B
REQUIRED FISCAL SECURITY FOR OFFICERS AND EMPLOYEES

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Special Provisions in Appendix. See section 3 of Act 106 of 2011 in the appendix to this title for special provisions relating to required security.

§ 1121. Short title and scope of subchapter.

(a) Short title of subchapter.--This subchapter shall be known and may be cited as the County Officer and Employee Fiscal Security Act.

(b) Scope of subchapter.--This subchapter applies to security coverage and additional coverage in the form of bonds, blanket bond or insurance, protecting against events of loss of money or property as a result of misconduct by officers and employees in counties of the second class, second class A, third class, fourth class, fifth class, sixth class, seventh class or eighth class, including counties of these classes which have adopted a home rule charter or an optional plan.

(c) Inapplicability.--This subchapter shall not apply to bonds of county treasurers acting as tax collectors as provided in section 4 of the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law.

§ 1122. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Additional coverage." Insurance that covers each county at a minimum for the loss of money or property through robbery, burglary and larceny committed by parties other than officers or employees required to receive or hold money.

"Blanket bond." Security coverage in the form of a bond for county officers and employees as follows:

(1) for county officers and employees as a comprehensive group;

(2) for a group of named county officers and employees; or

(3) for county officers and employees in scheduled positions.

"Bond." Security coverage under which a surety guarantees the performance of a duty by a county officer or employee in compliance with this subchapter.

"County." A county of the second class, second class A, third class, fourth class, fifth class, sixth class, seventh class or eighth class, including counties of these classes which have adopted or may adopt a home rule charter or an optional plan.

"County officers and employees." Elected and appointed county officials, deputies and other appointees of county elected and appointed officials and county employees, whether acting on behalf of the county or as agents of a Commonwealth agency or a governing authority, who are required to receive, account for or hold any money or property by virtue of their office or employment.

"Crime-fidelity insurance." Insurance that is endorsed with faithful performance of duty coverage and which insures, at a minimum, against events of loss of money or other property resulting from one or more fraudulent or dishonest acts, including, but not limited to, embezzlement, theft, forgery, similar acts of dishonesty or fraud by a county officer or employee acting alone or in collusion with others, or from a breach of fiduciary duty or a failure of a county officer or employee to perform faithfully the officer's or employee's duties or to account properly for all money and property received or held by virtue of the officer's or employee's office or employment.

"Governing authority." Includes:

(1) The Supreme Court.

(2) Any agency or unit of the unified judicial system exercising a power or performing a duty under 42 Pa.C.S. § 1721 (relating to delegation of powers).

"Governing body." The county board of commissioners or the body vested with the legislative authority of the county in counties which have adopted a home rule charter or an optional plan.

"Home rule charter." A charter adopted under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government) or its predecessor, the former act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law, or Article XXXI-C of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code.

"Money." Coin or currency of the United States or of any other country, travelers checks, personal checks, bank checks and bank notes in current use and having a face value, money orders and securities.

"Official security." Security on behalf of a county officer to provide protection from events of loss or misconduct when the officer fails to faithfully perform the duties of the office.

"Optional plan." An optional plan adopted under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government) or its predecessor, the former act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law.

"Required security." Security coverage and additional coverage provided in compliance with this subchapter.

"Securities." All negotiable and nonnegotiable instruments or contracts representing either money or other property, including revenue and other stamps in current use, tokens and tickets and evidences of debt issued in connection with credit or charge cards, which cards are not issued by the county.

"Security coverage." A bond, a blanket bond or a crime-fidelity insurance policy, which is endorsed with faithful performance of duty coverage, provided in compliance with this subchapter for the purpose of protecting against the loss of money and other property sustained as a result of one or more fraudulent or dishonest acts, including, but not limited to, embezzlement, theft, forgery, similar acts of dishonesty or fraud by a county officer or employee acting alone or in collusion with others, or from a breach of fiduciary duty or a failure of a county officer or employee to perform faithfully the officer's or employee's duties or to account properly for all money and property received by virtue of the officer's or employee's position or employment.

§ 1123. Required security.

(a) In general.--A county shall obtain security coverage and additional coverage for county officers and employees in accordance with this subchapter.

(b) Security coverage.--Security coverage shall be provided in accordance with the following:

(1) Section 1124 (relating to official security and officers).

(2) Section 1125 (relating to other county officers and employees).

(3) Section 1126 (relating to county officers and employees acting as agents).

(c) Additional coverage.--Supplemental to or as part of the security coverage to be provided in accordance with this subchapter, the county shall obtain additional coverage in the form of adequate insurance indemnifying it against the loss of

money and property through robbery, burglary and larceny by parties other than those required to obtain security in accordance with this chapter.

(d) Primary liability.--

(1) Except as provided in paragraph (2), the county shall be primarily liable for a claim for the loss of money and property which a county officer or employee is required to receive, account for or hold by virtue of the officer's or employee's office or employment, to the extent that the loss is or could have been the subject of required security under this subchapter.

(2) The county shall not be primarily liable for a claim for the loss of money and property under paragraph (1) to the extent that recovery of the loss can be obtained from other insurance or bond protection provided by the Commonwealth agency or any other person or entity asserting a claim.

(3) With regard to the loss of money or property, nothing in this subchapter shall be deemed to restrict or diminish a county's right to reimbursement or subrogation or to limit any right the county may have to be indemnified or receive restitution for the loss.

Cross References. Section 1123 is referred to in sections 1127, 1128 of this title.

§ 1124. Official security and officers.

(a) Official security.--Each county shall obtain official security in the form of bonds, a blanket bond or a crime-fidelity insurance policy, which is endorsed with faithful performance of duty coverage, that protects the county from losses caused by acts of the officers set forth in subsection (b) or the equivalent officers in home rule or optional plan counties, whether elected, appointed or appointed to fill a vacancy, before those officers begin their official duties.

(b) Officers.--The following are the officers or equivalent officers in home rule or optional plan counties upon whose behalf official security shall be obtained in accordance with subsection (a):

(1) Each county commissioner.
(2) The chief clerk of the county commissioners.
(3) The controller.
(4) The county treasurer.
(5) The prothonotary of the court of common pleas.
(6) The sheriff.
(7) The coroner.
(8) The clerk of the courts of the court of common pleas.
(9) The clerk of the orphans' court division of the court of common pleas.
(10) The recorder of deeds.
(11) The register of wills.
(12) Probation and parole officers, if required by order of court to obtain official security.
(13) The fire marshal and deputy fire marshals, if required by law to obtain official security.
(14) The secretary of the board of health and the health officer in a county in which the secretary is required by law to obtain official security.

Cross References. Section 1124 is referred to in sections 1123, 1125, 1127 of this title.

§ 1125. Other county officers and employees.

A county shall obtain security coverage with faithful performance of duty coverage for all county officers and employees who are not subject to section 1124 (relating to official security and officers), including deputies and other appointees in each county office, who are required to receive, account for or hold any money and other property by virtue of their office or employment.

Cross References. Section 1125 is referred to in section 1123 of this title.

§ 1126. County officers and employees acting as agents.

Each county shall obtain security coverage for county officers and employees acting as agents of a Commonwealth agency or governing authority in accordance with this subchapter or any other law, regulation or rule requiring the posting of security in the form of a bond or otherwise.

Cross References. Section 1126 is referred to in section 1123 of this title.

§ 1127. Bonds or blanket bond as security coverage.

(a) In general.--A county may comply with section 1123(b) (relating to required security) by providing bonds or a blanket bond in accordance with the following:

(1) The bond or blanket bond shall be joint and several, with one or more surety companies authorized to do business in this Commonwealth and licensed by the Insurance Commissioner.

(2) The bond or blanket bond shall be conditioned upon each of the following:

(i) The faithful performance of all duties required of the person holding the office or position.

(ii) The just and faithful use, accounting or payment over, according to law, of all moneys and balances and other property, which are received or held by the officer or employee by virtue of the officer's or employee's office or employment whether on behalf of the county, the Commonwealth, a political subdivision or any other person.

(iii) The delivery to the successor in office of all books, papers, documents or other official things, whole, safe and undefaced, held in right of the office.

(3) A bond or blanket bond shall be taken in the name of the county and, in case of a breach of any of the conditions thereof by the acts or neglect of a principal on the bond, shall be for the use of the county, the Commonwealth, a political subdivision or any other person as that person's interest shall otherwise appear.

(4) The county, the Commonwealth, a political subdivision or other listed obligees or insureds, as the case may be, may sue upon the bond in its name or for its own use. Acts of the General Assembly pertaining to actions and limitations of actions upon official bonds given to the Commonwealth shall apply to the bonds provided for in this subchapter just as if they were given to the Commonwealth, except as otherwise specifically provided in this subchapter.

(b) Combined offices.--In counties in which one or more of the county offices set forth in section 1124(b) (relating to official security and officers) are combined, if officers are covered by individual bonds, a single bond covering the combined offices shall suffice for the officer holding the combined offices.

§ 1128. Insurance as security coverage.

A county may comply with section 1123(b) (relating to required security) by providing crime-fidelity insurance for county officers or employees in accordance with this subchapter.

§ 1129. Form of required security.

The form and contents of a bond, a blanket bond or insurance obtained in compliance with this subchapter shall be approved by the governing body of the county, after review by the county solicitor and consultation with the county risk manager, if any. In cases in which required security is being provided for a county officer or employee who is acting as an agent for a Commonwealth agency or the governing authority, the Commonwealth agency or the governing authority may review and comment on the form of the required security. The governing body may refer to sample forms that may be made available by the Department of State in the approval process.

§ 1130. Amount of coverage.

(a) Governing body.--The governing body shall establish a procedure pursuant to which the governing body shall annually determine the form and amount of required security that will be reasonably sufficient to protect against the risks of loss in compliance with this subchapter.

(b) Risk manager.--The governing body may appoint a risk manager who, at the request of the governing body, shall compile and submit information relevant to the determination of an amount of required security under subsection (a).

(c) Consultation.--To determine the amount of security for a county officer or employee who is acting as an agent for a Commonwealth agency or governing authority, the governing body may, or the risk manager shall, if directed by the governing body, provide written notice to the secretary or head of the Commonwealth agency or the governing authority. The Commonwealth agency or governing authority may provide input concerning the amount of security it believes is reasonably sufficient to protect against the risks of loss required to comply with this subchapter. Nothing in this subchapter shall impair the right of a Commonwealth agency or governing authority from approving the amount of required security, if it is explicitly authorized by law to approve the amount of a bond or other security of a county officer or employee acting as its agent.

§ 1131. Custody and filing of required security documents.

(a) Custody.--The governing body shall direct the chief clerk or equivalent officer in a home rule or optional plan county to present the documents evidencing required security obtained in accordance with this subchapter to the recorder of deeds or equivalent officer in a home rule or optional plan county for recording. No tax, fee or other charge shall be imposed for the recording of documents in compliance with this section. Following the recording, the documents shall be returned to the chief clerk or equivalent officer in a home rule or optional plan county, who shall maintain the custody of these documents on behalf of the governing body.

(b) Department of State filing.--

(1) In compliance with section 809 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, it shall be sufficient for a copy of the recorded documents evidencing the required security for county officers to be filed with the Department of State in accordance with deadlines established by the department.

(2) No other filing or approvals, except as provided in section 1133(c)(2) (relating to other requirements, references and approvals) of documents evidencing the required security for county officers, except that required

in accordance with paragraph (1), shall be required as a condition for the issuance of commissions to elected county officials by the Department of State.

(3) Notwithstanding the provision of any other law, no tax, fee or other charge shall be imposed as a result of the issuance of commissions to elected county officials, and no fee may be imposed for the recording of required security documents or commissions.

(c) Copies.--If requested by the Commonwealth agency or governing authority on whose behalf a county officer or employee is acting as an agent, a copy of recorded documents evidencing the required security shall be provided by the chief clerk or the equivalent officer in a home rule or optional plan county to the Commonwealth agency or governing authority. No charge or fee shall be imposed for any copy provided in accordance with this subsection.

(d) Filing by governing body.--The governing body shall have the duty to file documents as required by this section.

(e) Retention of documents.--Documents evidencing required security shall be held by the custodian thereof for the longer of the following periods:

(1) For at least one year after the officer's term of office or employee's period of employment and, in the case of a county officer or employee who is acting as an agent for a Commonwealth agency or governing authority, for at least one year after the settlement of accounts with the Commonwealth agency or the governing authority.

(2) For the period of time required by the act of August 14, 1963 (P.L.839, No.407), entitled "An act creating a county records committee; imposing powers and duties upon it; authorizing the Pennsylvania Historical and Museum Commission to assist and cooperate with it; defining county records; and authorizing the disposition of certain county records by county officers in counties of the second to eighth class," or the rules and regulations adopted pursuant thereto.

(f) Evidence.--A copy of original documents evidencing required security, certified as true and correct by the custodian thereof, or a copy of the recorded documents evidencing required security, certified as true and correct by the recorder of deeds, shall be competent evidence thereof in any judicial proceeding, in the same manner as the original would be if produced and offered in evidence.

(g) Sufficiency of filing and recording.--Notwithstanding any other provision of law, it shall be sufficient to file and record documents evidencing required security in accordance with this subchapter without further acknowledgment, filing or recording of these documents with any other county officer or with any other Commonwealth agency, except as required by this subchapter.

§ 1132. Payment of premiums and commissions on collections.

(a) Premiums and costs.--The premiums and costs for all forms of required security for county officials and employees shall be paid by the county. The requirement of this subchapter that a county acquire and pay the premiums and costs for required security shall not relieve a Commonwealth agency on whose behalf a county officer or employee is acting as an agent from an obligation, imposed by law, to procure insurance or bonding protection.

(b) Commissions on collections.--Nothing in this subchapter shall affect the right, provided for in any other law, of a county officer or employee to retain a commission, for use of

the county, on amounts collected or transmitted as agent for a Commonwealth agency. Notwithstanding the right to retain commissions in accordance with this paragraph, no county officer or employee shall be entitled to retain any additional sums from amounts collected for or to be transmitted to the Commonwealth agency for the purpose of paying premiums or costs related to the acquisition of required security.

§ 1133. Other requirements, references and approvals.

(a) Compliance.--A requirement in another law, regulation or rule that a bond be provided by a county officer or employee to secure the faithful performance of duty or to act as the agent of a Commonwealth agency or governing authority may be satisfied by including this obligation within the coverage of required security supplied in accordance with this subchapter.

(b) Reference to bonds.--Reference to bonds of county officers and employees in any other law shall be construed and read together with this subchapter, and if a conflict exists between this subchapter and the reference to bonds of county officers and employees in any other law, the provisions of this subchapter shall prevail.

(c) Other approvals.--Notwithstanding any other provision of law, the following shall apply to required security in the form of a bond, a blanket bond or insurance:

(1) Except as provided in paragraph (2), when required security is obtained in compliance with this subchapter, it shall not require the approval of any Commonwealth agency or the Governor as to form, content or amount.

(2) If any other law explicitly authorizes a Commonwealth agency or the Governor to approve the amount of a bond or other security of a county officer or employee, the amount of required security under this subchapter shall be subject to approval by the Commonwealth agency or the Governor, which approval shall not be unreasonably withheld.

Cross References. Section 1133 is referred to in section 1131 of this title.

APPENDIX TO TITLE 16
COUNTIES

Supplementary Provisions of Amendatory Statutes

2011, NOVEMBER 22, P.L.431, NO.106

§ 3. Required security.

A county may, at any time after the effective date of this section, obtain required security in accordance with 16 Pa.C.S. Ch.11 Subch. B. A county shall have in place required security in accordance with 16 Pa.C.S. Ch.11 Subch. B prior to the time that any elected county official takes office after the municipal election next following the effective date of this section. Bonds and insurance which, on the effective date of this section, cover county officers and employees shall remain in force and effect until required security is purchased.

Explanatory Note. Act 106 added Parts I, II and III of Title 16.