
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1155 Session of
2009

INTRODUCED BY EICHELBERGER, ROBBINS, ERICKSON, STOUT AND
WOZNIAK, DECEMBER 14, 2009

REFERRED TO LOCAL GOVERNMENT, DECEMBER 14, 2009

AN ACT

1 Amending Title 16 (Counties) of the Pennsylvania Consolidated
2 Statutes, adding provisions for required fiscal security
3 through bonding, blanket bonding and insuring of elected and
4 appointed county officers and employees; providing for
5 determining the form, amount and payment of premiums for and
6 the filing and recording of the required security and for the
7 subsequent issuance of official commissions; and making
8 related repeals.

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13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Title 16 of the Pennsylvania Consolidated
16 Statutes is amended by adding parts to read:

17 PART I

18 PRELIMINARY PROVISIONS (Reserved)

19 PART II

20 CREATION, ALTERATION AND FUNCTIONS (Reserved)

21 PART III

22 GOVERNMENT AND ADMINISTRATION

23 Subpart

24 A. General Provisions

25 CHAPTER 11

26 GENERAL PROVISIONS

27 Subchapter

28 A. (Reserved)

29 B. Required Fiscal Security for Officers and Employees

30 Sec.

1 1121. Short title and scope of subchapter.
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12 1131. Custody and filing of required security documents.
13 1132. Payment of premiums and commissions on collections.
14 1133. Other requirements, references and approvals.
15 § 1121. Short title and scope of subchapter.

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

19 (b) Scope of subchapter.--This subchapter applies to
20 security coverage and additional coverage in the form of bonds,
21 blanket bonds or insurance, protecting against events of loss by
22 officers and employees in counties of the second class, second
23 class A, third class, fourth class, fifth class, sixth class,
24 seventh class or eighth class, including counties of these
25 classes which have adopted a home rule charter or an optional
26 plan.

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

1 § 1122. Definitions.

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

5 "Additional coverage." Insurance that covers each county
6 officer or employee who is required to receive, account for or
7 hold any money or property by virtue of his or her office or
8 employment and which, at a minimum, indemnifies the county
9 against the loss of money and property through robbery, burglary
10 and larceny.

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

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

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

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

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

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

27 "County officers and employees." Elected and appointed
28 county officials, the deputies and other appointees of county
29 elected and appointed officials and county employees, whether
30 acting on behalf of the county or as agents of a Commonwealth

1 agency or the judicial branch, who are required to receive,
2 account for or hold any money or property by virtue of their
3 office or employment.

4 "Crime-fidelity insurance." Insurance that is endorsed with
5 faithful performance of duty coverage and which insures, at a
6 minimum, against events of loss of money or other property,
7 resulting from one or more fraudulent or dishonest acts,
8 including, but not limited to, embezzlement, theft, forgery,
9 similar acts of dishonesty or fraud by a county officer or
10 employee acting alone or in collusion with others, or from a
11 breach of fiduciary duty or a failure of a county officer or
12 employee to perform faithfully his or her duties or to account
13 properly for all money and property received, held or required
14 to be accounted for, by virtue of his or her office or
15 employment.

16 "Governing authority." Includes:

17 (1) The Supreme Court.

18 (2) Any agency or unit of the unified judicial system
19 exercising a power or performing a duty under 42 Pa.C.S. §
20 1721 (relating to delegation of powers).

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

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

1 "Judicial branch." The judicial branch specified in section
2 10(c) of Article V of the Constitution of Pennsylvania.

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

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

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

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

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

22 "Security coverage." A bond, a blanket bond or a crime-
23 fideliity insurance policy, which is endorsed with faithful
24 performance of duty coverage, provided in compliance with this
25 subchapter for the purpose of protecting against the loss of
26 money and other property sustained as a result of one or more
27 fraudulent or dishonest acts, including, but not limited to,
28 embezzlement, theft, forgery, similar acts of dishonesty or
29 fraud by a county officer or employee acting alone or in
30 collusion with others or from a breach of fiduciary duty or a

1 failure of a county officer or employee to perform faithfully
2 his or her duties or to account properly for all money and
3 property received by virtue of his or her position or
4 employment.

5 § 1123. Required security.

6 (a) In general.--A county shall have the power and its duty
7 shall be to provide security coverage and additional coverage to
8 county officers and employees in accordance with this
9 subchapter.

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

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

14 (2) Section 1125 (relating to other county officers and
15 employees; deputies and other appointees of county officers).

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

18 (c) Additional coverage.--Supplemental to or as part of the
19 security coverage to be provided in accordance with this
20 subchapter, additional coverage in the form of adequate
21 insurance indemnifying against the loss of money and property
22 through robbery, burglary and larceny, shall be provided for
23 each county officer or employee who is required to receive,
24 account for or hold any money and other property by virtue of
25 his or her office or employment.

26 (d) Primary liability.--

27 (1) Except as provided in paragraph (2), the county
28 shall be primarily liable for a claim for the loss of money
29 and property which a county officer or employee is required
30 to receive, account for or hold by virtue of his or her

1 office or employment, to the extent that the loss is or could
2 have been the subject of required security under this
3 subchapter.

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

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

14 § 1124. Official security and officers.

15 (a) Official security.--Each county shall obtain official
16 security in the form of bonds, a blanket bond or a crime-
17 fidelity insurance policy, which is endorsed with faithful
18 performance of duty coverage, on behalf of the officers set
19 forth in subsection (b) or the equivalent officers in home rule
20 or optional plans counties, whether elected, appointed or
21 appointed to fill a vacancy, before those officers enter upon
22 their official duties.

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

27 (1) Each county commissioner.

28 (2) The chief clerk of the county commissioners.

29 (3) The controller.

30 (4) The county treasurer.

1 (5) The prothonotary of the court of common pleas.

2 (6) The sheriff.

3 (7) The coroner.

4 (8) The clerk of the courts of the court of common
5 pleas.

6 (9) The clerk of the orphans' court division of the
7 court of common pleas.

8 (10) The recorder of deeds.

9 (11) The register of wills.

10 (12) The probation and parole officers, if required by
11 order of court to give bond to the county.

12 (13) The fire marshal and deputy fire marshals, if
13 required by law to give bond.

14 (14) The secretary of the board of health and the health
15 officer in counties in which they are required by law to give
16 bond.

17 § 1125. Other county officers and employees, deputies and other
18 appointees of county officers.

19 With regard to county officers and employees generally who
20 are not subject to section 1124 (relating to official security
21 and officers), including the deputies and other appointees in
22 each county office, who are required to receive, account for or
23 hold any money and other property by virtue of their office or
24 employment, each county shall obtain security coverage, in the
25 form of a blanket bond or a crime-fidelity insurance policy,
26 with faithful performance of duty coverage for all such
27 officers, employees, deputies and appointees.

28 § 1126. County officers and employees acting as agents.

29 Each county shall obtain security, in the form of a bond,
30 blanket bond or a crime-fidelity insurance policy covering

1 county officers and employees acting as agents of a Commonwealth
2 agency or the judicial branch in accordance with this subchapter
3 or any other law, regulation or rule requiring the posting of
4 security in the form of a bond or otherwise.

5 § 1127. Bonds or blanket bond as security coverage.

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

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

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

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

17 (ii) The just and faithful use, appropriation,
18 accounting or payment over, according to law, of all
19 moneys and balances and other property, which is required
20 to be received, accounted for or held by the officer or
21 employee by virtue of his or her office or employment
22 whether on behalf of the county, the Commonwealth, any
23 political subdivision or any other person.

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

28 (3) A bond or blanket bond shall be taken in the name of
29 the county and, in case of a breach of any of the conditions
30 thereof by the acts or neglect of the principal or principals

1 on the bond, shall be for the use of the county, the
2 Commonwealth, any political subdivision or any other person
3 as that person's interest shall otherwise appear.

4 (4) The county, the Commonwealth, any political
5 subdivision or other interested persons may sue upon the bond
6 in its or their own names for its or their own use. Acts of
7 the General Assembly pertaining to actions and limitations of
8 actions upon official bonds given to the Commonwealth shall
9 apply to the bonds provided for in this subchapter just as if
10 they were given to the Commonwealth, except as otherwise
11 specifically provided in this subchapter.

12 (b) Combined offices.--In counties in which any of the
13 county offices as set forth in section 1123(b) are combined, if
14 officers are covered by individual bonds, a single bond covering
15 the combined offices shall suffice for the officer holding the
16 combined offices.

17 § 1128. Insurance as security coverage.

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

21 § 1129. Form of required security.

22 The form and contents of a bond, a blanket bond or insurance
23 obtained in compliance with this subchapter shall be approved by
24 the governing body, after review by the county solicitor and
25 consultation with the county risk manager, if any. In cases in
26 which required security is being provided for a county officer
27 or employee who is acting as an agent for a Commonwealth agency
28 or the judicial branch, the relevant Commonwealth agency or the
29 appropriate governing authority may review and comment on the
30 form of the required security. In approving the form and

1 contents of a bond, a blanket bond or insurance obtained in
2 compliance with this subchapter, the governing body may refer to
3 sample forms that may be made available by the Department of
4 State.

5 § 1130. Amount of coverage.

6 (a) Governing body.--The governing body shall have the power
7 and its duty shall be to establish a procedure pursuant to which
8 the governing body shall annually determine an amount of
9 required security in whatever form that will be reasonably
10 sufficient to protect against the risks of loss to be covered in
11 compliance with this subchapter.

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

16 (c) Consultation.--In determining the amount of required
17 security under this section for a county officer or employee who
18 is acting as an agent for a Commonwealth agency or the judicial
19 branch, the governing body may, or the risk manager shall, if
20 directed by the governing body, give notice in writing to the
21 secretary or head of the relevant Commonwealth agency or the
22 appropriate governing authority. The Commonwealth agency or
23 governing authority may provide input concerning the amount of
24 security it believes is reasonably sufficient to protect against
25 the risks of loss to be covered in compliance with this
26 subchapter. Nothing in this subchapter shall impair the right of
27 a Commonwealth agency from approving the amount of required
28 security, if it is explicitly authorized by law to approve the
29 amount of a bond or other security of a county officer or
30 employee acting as its agent.

1 § 1131. Custody and filing of required security documents.

2 (a) Custody.--The governing body shall direct the chief
3 clerk or equivalent officer in a home rule or optional plan
4 county to present the documents evidencing required security
5 obtained in accordance with this subchapter to the recorder of
6 deeds or equivalent officer in a home rule or optional plan
7 county for recording. No tax, fee or other charge shall be
8 imposed for the recording of documents in compliance with this
9 section. After the documents evidencing required security are
10 recorded, they shall be returned to the chief clerk or
11 equivalent officer in a home rule or optional plan county, who
12 shall maintain the custody of these documents on behalf of the
13 governing body.

14 (b) Department of State filing of required security
15 documents and commissions.--

16 (1) In satisfaction of section 809 of the act of April
17 9, 1929 (P.L.177, No.175), known as The Administrative Code
18 of 1929, it shall be sufficient for a copy of the recorded
19 documents evidencing the required security for county
20 officers to be filed with the Department of State in
21 accordance with deadlines established by the department.

22 (2) No other filing or approvals, except as provided in
23 section 1133(c)(2) (relating to other requirements,
24 references and approvals) of documents evidencing the
25 required security for county officers, except that required
26 in accordance with paragraph (1), shall be required as a
27 condition to the issuance of commissions to elected county
28 officials by the Department of State according to law.

29 (3) Notwithstanding the provision of any other law, no
30 tax, fee or other charge shall be imposed as a result of the

1 issuance of the commissions to elected county officials, and
2 no fee may be made for the recording of required security
3 documents or commissions.

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

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

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

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

23 (2) For the period of time required by the act of August
24 14, 1963 (P.L.839, No.407), entitled "An act creating a
25 county records committee; imposing powers and duties upon it;
26 authorizing the Pennsylvania Historical and Museum Commission
27 to assist and cooperate with it; defining county records; and
28 authorizing the disposition of certain county records by
29 county officers in counties of the second to eighth class,"
30 or the rules and regulations adopted pursuant thereto.

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

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

15 § 1132. Payment of premiums and commissions on collections.

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

24 (b) Commissions on collections.--Nothing in this subchapter
25 shall affect the right, provided for in any other law, of a
26 county officer or employee to retain a commission, for use of
27 the county, on amounts collected or transmitted as agent for a
28 Commonwealth agency. Notwithstanding the right to retain
29 commissions in accordance with this paragraph, no county officer
30 or employee shall be entitled to retain any additional sums from

1 amounts collected for or to be transmitted to the Commonwealth
2 agency for the purpose of paying premiums or costs related to
3 the acquisition of required security.

4 § 1133. Other requirements, references and approvals.

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

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

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

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

25 (2) If, by law, a Commonwealth agency or the Governor is
26 explicitly authorized to approve the amount of a bond or
27 other security of a county officer or employee, the amount of
28 required security under this subchapter shall be subject to
29 approval by the Commonwealth agency or the Governor, which
30 approval shall not be unreasonably withheld.

1 Section 2. Repeals are as follows:

2 (1) The General Assembly declares that the repeals under
3 paragraph (2) are necessary to effectuate the amendment or
4 addition of 16 Pa.C.S. Ch. 11 Subch. B.

5 (2) The following acts and parts of acts are repealed:

6 (i) Sections 420, 421, 422, 423, 424, 425, 426, 427,
7 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 802,
8 803, 804 of the act of August 9, 1955 (P.L.323, No.130),
9 known as The County Code.

10 (ii) Sections 420, 421, 422, 423, 424, 425, 426,
11 427, 428, 429, 430, 431, 802, 803, 804, 1261 and 1262 of
12 the act of July 28, 1953 (P.L.723, No.230), known as the
13 Second Class County Code.

14 (iii) As much of section 3103 of the Second Class
15 County Code, as reads as follows: "The bond of the fire
16 marshal shall be in the sum of ten thousand dollars
17 (\$10,000) and the bonds of the deputy fire marshals shall
18 be in the sum of five thousand dollars (\$5000)."

19 (3) All acts and parts of acts are repealed insofar as
20 they are inconsistent with this act.

21 Section 3. A county may, at any time after the effective
22 date of this section, obtain required security in accordance
23 with 16 Pa.C.S. Ch.11 Subch. B. A county shall have in place
24 required security in accordance with 16 Pa.C.S. Ch.11 Subch. B
25 prior to the time that any elected county official takes office
26 after the municipal election next following the effective date
27 of this section. Bonds and insurance, which, on the effective
28 date of this section, cover county officers and employees, shall
29 remain in force and effect until required security is purchased.

30 Section 4. This act shall take effect immediately.