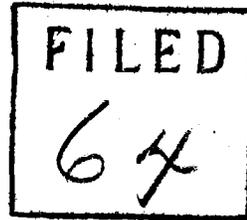


OFFICIAL BONDS: Recommended changes in form of bonds and insurance policy for Department of Revenue.



August 8, 1946

8/16

Hon. M. S. Morris, Director  
Department of Revenue  
Jefferson City, Missouri

Dear Sir:

Reference is made to your letter of recent date requesting an opinion with respect to certain bonds and endorsements attached thereto submitted with your letter of inquiry. Your opinion request read as follows:

Enclosed please find copy of original and two original bonds issued by the National Surety Corporation, New York. The original of the first mentioned is held by Wilson Bell, Secretary of State, and the attached letter from the Central Missouri Trust Company as agent for the National Surety Corporation will explain the contemplated procedure. It is our understanding that

"1. Coverage represented by the duplicate will cover all moneys and securities handled by the Department of Revenue and our central office and any branch office, or while in transit, against the specified hazards.

"2. The public officials schedule bond applies to various deputy commissioners appointed in the outstate motor vehicle registration offices and the fidelity coverage for \$10,000.00 each.

"3. That the blanket position bond covers each employee in any capacity in the Department of Revenue, and provides fidelity coverage to the extent of \$10,000.00 for each and every employee.

"It is noted that the last mentioned bond is to the State of Missouri for use of the Department of Revenue.

"After examination of the bonds I would appreciate your opinion as to the correctness of the forms and whether or not in view of the provisions of SCS for SB 297, the bonds should state that they are for the use and benefit of the Department of Revenue and be assigned to the Department of Revenue, or if the Collector of Revenue and other divisions of the Department which obviously require bonds should be mentioned. I will appreciate the return of the attached letter with the bonds following your examination.

"This procedure seems necessary in order that we may take advantage of the premium which has been paid on this coverage, and which the company is willing to transfer to the Department of Revenue to avoid any cancellation charge."

With respect to the understanding you have arrived at as shown by paragraph 1 of your letter, the following suggestions are offered in connection with the form and conditions of policy numbered B. F. 1142841 of the National Surety Corporation:

(a) The endorsement attached to the policy numbered B. F. 1142841 names as obligee Wilson D. Bell, Secretary of State, and/or M. E. Morris, Director of Revenue. We are at a loss to understand the reason for the policy being in this form inasmuch as it is primarily designed to protect the Department of Revenue from loss of money and securities under that department's control. It is suggested that the policy name as sole obligee the State of Missouri for the use and benefit of the Department of Revenue.

(b) You indicate in paragraph 1 of your letter that the understanding is that the policy will protect all money and securities under the control of the Department of Revenue both in your central office and any branch office, or while in transit. The coverage extended under the policy is a maximum of \$100,000.00 against direct loss of money and securities occurring within the premises and caused by the actual destruction, disappearance or wrongful abstraction thereof. This insuring clause appears as Item I of the policy. Under the

endorsement attached to the policy, "premises" is defined as being the interior of that portion of any building which is occupied solely by the assured in conducting its business. The maximum coverage afforded by the policy with respect to loss of money and securities occurring outside the premises, as disclosed by Item II, is the sum of \$40,000.00. Your attention is directed to the fact that such coverage is afforded only when such money and/or securities are being conveyed by messengers in accordance with the endorsements attached to said policy. Further, specific warranties on the part of the obligee are incorporated in the endorsement relative to conveying money and securities from the location at 7814 Forsythe, Clayton, Missouri, that messenger will be accompanied by one guard, and from the location at the corner of 4th & St. Charles Streets, St. Louis, Missouri, that messenger will be accompanied by one guard when conveying property valued up to \$10,000.00 and by two guards when conveying property in excess of \$10,000.00, and that messenger travel in private vehicle. Further, by additional endorsement, the coverage purported by Item I applies only to the maximum of \$5,000.00 from within any new premises, and that only after written notice of the establishment of such new premises is given the company within thirty days thereafter and the necessary additional premium paid. The same endorsement further provides that the coverage afforded under Item II of the policy is limited to the amount of \$5,000.00 while being conveyed by messengers, accompanied or unaccompanied by a guard, in addition to the messengers described in the schedule.

With respect to the understanding you have of the coverage afforded by the Public Official Schedule Bond of the National Surety Corporation as shown in paragraph 2 of your letter, the following suggestions are submitted:

(a) This bond originally named the State of Missouri for the use and benefit of Wilson Bell, Secretary of State, as obligee, and by endorsement has been changed to name as such the State of Missouri for the use and benefit of M. E. Morris, Director of Revenue. It is thought that the obligee in this bond should be the State of Missouri for the use and benefit of the Department of Revenue.

(b) You are correct in your understanding that the fidelity coverage is in the amount of \$10,000.00 on each official named in the schedule. Your attention is also directed to the fact that new employees or employees not previously covered, who succeed to a position vacated during the next preceding thirty days by an employee who was then covered, or who occupy a newly created position, are covered only to the amount of \$5,000.00. To provide the coverage of \$10,000.00 for such

successor or new employees, it is necessary that they be scheduled.

With respect to your understanding of the coverage afforded by the Public Employees Blanket Position Bond of the National Surety Corporation as shown by paragraph 3 of your letter, the following suggestions are submitted:

(a) This bond names as obligee the State of Missouri for the use and benefit of the Department of Revenue, and is in proper form in that regard.

(b) Under certain circumstances, the maximum penalty which might be collected under the bond would be the sum of \$10,000.00. This limitation would result if the obligee should be unable to designate the specific employee or employees causing a loss. This limitation appears in Item 3 of the bond and specifically provides that the aggregate liability of the surety for any such loss shall not exceed the bond penalty. "Bond penalty" is defined in the first paragraph of the bond and fixed at the sum of \$10,000.00.

(c) In accordance with Item 8 of the bond, such bond shall not be construed as one required by law.

The letter received by you from the Central Missouri Trust Company Insurance Agency, Jefferson City, Missouri, together with the three proposed bonds are returned herewith.

Respectfully submitted,

WILL F. BERRY, Jr.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

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