



STATE OF ALABAMA
Department of Finance
Office of the State Comptroller

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Robert Bentley
Governor

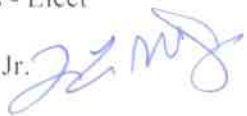
Marquita F. Davis, Ph.D.
Director of Finance

Thomas L. White, Jr., CPA
State Comptroller

Janice A. Hamm, CPA
Deputy State Comptroller

MEMORANDUM

TO: All Probate Judges - Elect

FROM: Thomas L. White, Jr. 
State Comptroller

DATE: December 10, 2012

RE: Public Official Surety Bonds

In compliance with the Code of Alabama, you are required to execute a public official surety bond for the faithful performance of your duties (Section 11-2-1, Code of Alabama, 1975). There are provisions contained in the Code of Alabama, 1975 relative to the execution and filing of your bond. In an effort to handle the bonds as expeditiously as possible, I will briefly discuss those things that will be checked by this office. Bonds not properly prepared or in compliance with the Code will be returned for correction.

The bond of the probate judge shall be filed and recorded in the office of the circuit clerk, and **a duplicate copy filed in the office of the comptroller** (Section 11-2-3, Code of Alabama, 1975).

Your bond **must be filed no later than the date you take office which is January 15, 2013** (Section 11-2-6, Code of Alabama, 1975). However, it is important that your bond be **filed as soon as possible** in order to avoid last minute delays should the bond have to be returned for correction. If any official required by law to give bond fails to file the same within the time fixed by law, he/she vacates his/her office (Section 36-5-15, Code of Alabama, 1975).

As previously cited, the bond is to be executed in duplicate – the original to be filed in the circuit clerk's office and the duplicate filed in this office. The **amount of the bond** will be determined by the use of the table provided in Section 12-13-33, Code of Alabama, 1975, as amended. The bond shall be **for the term of six (6) years from January 14, 2013** (Section 12-13-30, Code of Alabama, 1975). Alternatively, the bond may be worded so that it is **for the term of six (6) years beginning on January 15, 2013**. (Attorney General Opinion 83-00241 states that the term of office of a probate judge begins on Tuesday and does not include the Monday from which the term begins to run.)

Before the bond can be filed, it **must show the approval and signature of the approving officer and the day and year approved** (Sections 36-5-6 through 36-5-8, Code of Alabama, 1975). The code is not clear as to who the approving officer is for probate judge bonds. Since it must be filed in the circuit clerk's office, it is my opinion that either the circuit clerk or circuit judge would be the appropriate officer to approve the bond.

The bond is to be made payable **to the county treasury** (Section 11-2-1, Code of Alabama, 1975). For those re-elected, please note that this is a change from your previous bond which was payable solely to the State of Alabama. This change is due to the enactment of Act 2009-744. The bond must be made by a surety or guaranty company authorized by the laws of this state to make bonds and qualified to do business in this state (Section 11-2-6). The bond must also be issued through an insurance producer duly licensed under the laws of this state (Section 27-3-27).

Please have your agent **print his/her name and the city of residence below the signature**. The Department of Insurance is contacted to check the authorization of the agent so the name and city must be legible.

In conjunction with the filing of your public official bond, you must also file an oath of office with the clerk of the circuit court.

You are also required to obtain a commission before entering upon and exercising the duties of your office. This commission may be obtained from the Secretary of State and the cost of the commission is \$5.00 (Sections 36-2-6 through 36-2-10, Code of Alabama, 1975). The \$5.00 is to be sent to the Secretary of State by you. Questions concerning the commissions should be directed to Judy Bradshaw, Commissions Administrator, at (334) 242-7224.

If you need assistance or have additional questions, please contact Shirley O'Connell at (334) 242-0440.

CHECKLIST TO BE FOLLOWED BEFORE BONDS FILED

- () Amount of bond (Section 12-13-33, Code.)
- () Term - 6 years from January 14, 2013 or 6 years beginning on January 15, 2013 (Section 12-13-30, Code)
- () Payable to the county treasury (Section 11-2-1, Code)
- () Surety company and insurance producer authorized by the laws of this state (name and city printed below agent's signature) (Sections 11-2-6 and 27-3-27, Code)
- () Approval and signature of approving officer, day and year. Must say, "approved" (Sections 36-5-6 through 36-5-8, Code)
- () Your signature as principal

Now it can be filed with the circuit clerk and a duplicate sent to the Comptroller at the following address:

State Comptroller's Office
Attn: Shirley O'Connell
PO Box 302602
Montgomery, AL 36130-2602