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Kathleen D. Baxter, PhD, CGFM, CPM
State Comptroller

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MEMORANDUM

TO: All Probate Judges
FROM: Kathleen D. Baxter 
State Comptroller
DATE: December 18, 2024
SUBJECT: Public Official Surety Bonds

Section 11-2 et.al., Code of Alabama 1975, as amended, requires probate judges to execute a public official surety bond for the faithful performance of their duties. This code section contains provisions relating to the execution and filing of these bonds. Bonds not properly prepared or in compliance with law will be returned for correction. The information below provides details of obtaining and submitting the bond in accordance with this code section.

The bond of the probate judge shall be filed and recorded in the Office of the Circuit Clerk, and **a second copy filed in the Office of the State Comptroller.** A third copy may be retained for your records.

The bond **must be filed on January 21, 2025 except for appointed Probate Judges.** **Appointed Probate Judges must file their bond to correspond with the Governor's appointment letter.** It is important that the bond be **filed as soon as possible** to avoid last minute delays should the bond have to be returned for correction. If an official, required by law to give bond, fails to file the bond within the time fixed by law, he/she vacates his/her office (§ 36-5-15, Code of Alabama 1975, as amended).

The official Probate Judge Surety Bond form is located on the Comptroller website. Two versions are available in fillable format, one for elected Probated Judges and one for appointed Probate Judges.

The **amount of the bond** will be determined by using the table provided in § 12-13-33, Code of Alabama 1975, as amended. For an **elected** Probate Judge the bond shall be **for the term of six (6) years beginning on January 21, 2025.** (See Attorney General Opinion 83-00241). For an **appointed** Probate Judge the bond shall be **for the remainder of the current six (6) year term beginning on the appointment date from the Governor's appointment letter.**

According to sections 36-5-6 through 8, Code of Alabama 1975, as amended, **before** the bond can be filed, it **must show the approval and signature of the approving officer and the day and year approved.** Since the bond must be filed in the Circuit Clerk's Office, 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.** The bond must be made by a surety or guaranty company authorized by Alabama law to make bonds and qualified to do business in this state. The bond must be issued through an insurance producer duly licensed under Alabama law (§ 27-3-27, Code of Alabama 1975, as amended).

The agent's name and city of residence must be provided to the Comptroller's Office with a copy of the bond. The Comptroller's office via The Department of Insurance checks the authorization of the agent, so the name and city must be legible.

In conjunction with the filing of the public official bond, an oath of office must be filed with the clerk of the circuit court. For convenience, a section for the oath of office is located at the bottom of the official Probate Judge Surety Bond form.

A commission must be obtained before entering upon and exercising the duties of the office (Sections 36-2-6 through 10, Code of Alabama 1975, as amended). This commission may be obtained from the Secretary of State and the cost of the commission is \$5.00. The \$5.00 is to be sent to the Secretary of State. Questions concerning the commissions should be directed to Shemekwa Farrow, Commissions Administrator, at (334) 242-7224.

Once all items have been fulfilled the bond may be filed with the circuit clerk and the second copy sent to the Comptroller at the following address:

State Comptroller's Office
Department of Finance – Receipts Section
P.O. Box 302602
Montgomery, AL 36130-2602
Attn: Jenny Neese

For assistance or additional questions, please contact Jenny Neese at (334) 242-7830.

KDB/cl

Attachments: Checklist

CHECKLIST TO BE FOLLOWED BEFORE BOND IS FILED

- () Amount of bond as determined by § 12-13-33.
- () Term - Elected Probate Judge: 6 years beginning on January 21, 2025, § 12-13-30.
Appointed Probate Judge: Remainder of the current 6-year term beginning on the appointment date.
- () Payable to the county treasury. § 11-2-1.
- () Surety company and insurance producer authorized by the laws of this state; the agent's name and city provided on copy of bond. §§ 11-2-6 and 27-3-27.
- () Approval and signature of approving officer, day, and year; must say, "approved." §§ 36-5-6 through -8.
- () Your signature as principal.