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Bonding Basics for Michigan Treasurers

Crime Coverage vs. Surety Bond

- Crime Insurance
  - What is it?
    - Crime Insurance is coverage of monies, securities, and other property against theft, forgery, and other unlawful acts.
    - Government entities have separate coverage forms compared with commercial entities.
  - Who does it cover?
    - The policy is held by the municipality.
  - How do I get it?
    - Crime coverage can be added to an existing Commercial Insurance Policy, or as a standalone product.
  - How much?
    - Policy limit listed on the declarations page subject to named deductible.
  - Exclusions
    - Almost every crime coverage policy ***excludes*** any employee that is required by law to be bonded.
      - In Michigan this includes clerks, treasurers, deputy treasurers, and constables (MCL 41.69).
    - However, as a stop gap government crime forms contain an Indemnification condition that indemnifies the subordinates of an employee who is required to be separately bonded.

Crime Coverage vs. Surety Bond

- Public Official Surety Bond
  - What is it?
    - Guarantees faithful performance of the office held.
    - For a treasurer this means honesty and faithful performance of duty while handling money as required by the law.
    - Sureties view these types of bonds as more hazardous in nature when compared to other types of public official bonds. A surety can be held liable if the bonded official or their subordinate mishandle their duties.
    - In order to properly underwrite these bonds, sureties can require background information including resumes and financial condition documentation for the bonded individual. Requirements may vary from surety to surety and based on the amount of funds bonded.
  - What does the state say?
    - MCL 41.77 *"A township treasurer, within the time limited for filing the oath of the office, shall give a bond to the township in the sum and with the sureties as the township board shall require and approve, conditioned on the faithful discharge of the duties of the office and that the treasurer will account for and pay over according to law, all money that comes into the treasurer's hands as treasurer, and the supervisor shall endorse approval on the bond."*
  - Why is it needed?
    - The bond submitted upon taking office is to cover day-to-day transactions

Summer and Winter Taxes

Summer and Winter Taxes

- What does bonding mean for property taxes?
  - MCL 211.43 outlines tax collection parameters, including providing a surety bond in the amount of 40% of the total of the taxes collected.
    - (2) *The treasurer, immediately upon authorization to raise money by taxation pursuant to an election held under section 36 or on or before the third day immediately preceding the day the taxes to be collected become a lien, shall give to the county treasurer a bond running to the county in the actual amount of state, county, and school taxes, except school taxes collected through a city treasurer, with sufficient sureties to be approved by the supervisor of the township and the county treasurer, conditioned that he or she will pay over to the county treasurer as required by law all state and county taxes, pay over to the respective school treasurers all school taxes that he or she collects during each year of his or her term of office, and duly and faithfully perform all the other duties of the office of treasurer.*
    - (2) *If a corporate surety bond is provided, the bond shall be approved only by the county treasurer. If the bond is furnished by a surety company authorized to transact business under the laws of this state, it is sufficient that the bond is equal to 40% of the amount of state, county, and school taxes.*
  - This bond is in addition to the bond required upon taking oath.
    - The bonded amounts for tax collections are exponentially higher than most ordinary public official bonds.

Summer and Winter Taxes

- What does this mean for County Treasurers?
  - A township may post a bond to the county for 40% of the taxes collected.
  - The county is then responsible for the cost of the bond.
  - The county has the option of putting all the township treasurers on one bond
    - The advantage here is that the county treasurer can be certain a bond is in place.
  - Because the statute provides for two distinct tax collection terms, two bonds should be executed.
    - One for the summer period and one for the winter period.

Summer and Winter Taxes

- Submitted Questions:
  - Do Deputy Treasurers need to be bonded too?
    - Michigan law requires a Deputy Treasurer to hold a surety bond for day-to-day transactions.
    - The property tax bond requirement does not require a Deputy Treasurer to be listed on the bond.
      - » However, if the township treasurer does not meet the financial requirements of the surety company, the Deputy Treasurer can be listed on the bond instead.
  - Do Deputy Treasurers need to sign a separate application?
    - Yes. In both scenarios listed above a Deputy must fill out and sign their own application.
  - Does the cost of the bond increase by bonding the deputies?
    - No. Bond premium is based on the penal sum of the bond.

Indemnity

Indemnity

- Indemnity Agreements
  - When applying for a bond, sureties require a completed application to be submitted.
  - Applications normally contain an “indemnity agreement” portion that outlines the surety’s rights in the event of a loss.
  - By signing the document you agree to the terms which may include reimbursement to the surety for losses.
- Submitted question:
  - Explain the statement found on an indemnity agreement: “I hereby waive any homestead or other exemption to which I may be entitled under the laws of any state of the United States of America.”
    - According to MCL 600.5451 - Homestead exemption exists for unsecured obligation up to approximately $30,000 or $45,000 if the debtor is over the age of 65.
    - Practically applied, this clause on an indemnity agreement waives that right provided by the state.
    - Example: In theory, if a principal had to liquidate their principal residence to reimburse a surety for a loss, and this clause was found in the signed indemnity agreement, the surety would be able to recover the entire sale amount of the home without having to relinquish the exempted amount back to the principal.

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