

CHAPTER 71

S.B. No. 507

AN ACT

relating to bonds and insurance required of certain clerks.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Sections 1 and 2, Article 1937, Revised Statutes, are amended to read as follows:

Sec. 1. *Except as provided by Section 6 of this article, each [Each] county clerk shall, before entering upon the duties of his office, give bond either with four or more good and sufficient sureties or with a surety company authorized to do business in Texas as a surety, to be approved by the Commissioners Court in an amount equal to not less than Five Thousand Dollars (\$5,000) nor less than twenty per cent (20%) of the maximum amount of fees collected in any year during the previous term of office immediately preceding the term of office for which the bond is to be given, but in no event to exceed Five Hundred Thousand Dollars (\$500,000), conditioned for the faithful discharge of the duties of his office. Said clerk shall also take and subscribe the official oath which shall be endorsed on the bond, if a bond is required, and the bond and oath so taken and approved, or the oath so taken, shall be recorded in the county clerk's office, and deposited in the office of the clerk of the District Court. A certified copy of such bond may be put in suit in the name of the county for the use of the party injured.*

Sec. 2. *Except as provided by Section 6 of this article, each [Each] county clerk shall obtain a surety bond covering his deputy; or a schedule surety bond or a blanket surety bond covering his deputies, if more than one, and all employees of his office. Each deputy and each employee, shall be covered for the same conditions and in the same amount as the county clerk.*

SECTION 2. Article 1937, Revised Statutes, is amended by adding Sections 6 and 7 to read as follows:

Sec. 6. *In lieu of a clerk obtaining a bond as required by Section 1 or 2 of this article, the county may self-insure against losses that would have been covered by the bond.*

Sec. 7. *The Commissioners Court may establish a contingency fund to provide the coverage required by Section 4 of this article if it is determined by the clerk that insurance coverage is unavailable at a reasonable cost. The Commissioners Court may set an additional filing fee in an amount not to exceed Five Dollars (\$5) for each suit filed to be collected by the county clerk. The fee shall be paid into the fund. When the contingency fund reaches an amount equal to that required by Section 4, the clerk shall stop collecting the additional fee.*

SECTION 3. Subsections (a), (b), and (d), Section 51.302, Government Code, are amended to read as follows:

(a) *Except as provided by Subsection (g), before [Before] beginning the duties of office, each district clerk must give a bond with two or more sufficient sureties or with a surety company authorized to do business in this state as a surety. The bond must:*

- (1) be payable to the governor;
- (2) be conditioned on the faithful performance of the duties of the office;
- (3) be approved by the commissioners court; and
- (4) be in an amount equal to not less than 20 percent of the maximum amount of fees collected in any year during the term of office immediately preceding the term of

office for which the bond is given, except that the bond may not be in an amount less than \$5,000 nor more than \$100,000.

(b) The district clerk must take and sign the oath prescribed for officers of this state, which must be endorsed on the bond, *if a bond is required*, and the bond and oath, *or oath*, must be filed and recorded in the office of the county clerk.

(d) The commissioners court may establish a contingency fund to provide the coverage required by Subsection (c) if it is determined by the district clerk that insurance coverage is unavailable *at a reasonable cost*. The commissioners court may set an additional filing fee in an amount not to exceed \$5 for each suit filed to be collected by the district clerk. The fee shall be paid into the fund. When the contingency fund reaches an amount equal to that required by Subsection (c), the clerk shall stop collecting the additional fee.

SECTION 4. Section 51.302, Government Code, is amended by adding Subsection (g) to read as follows:

(g) In lieu of the bond required by Subsection (a), the county may self-insure against losses that would have been covered by the bond.

SECTION 5. Subsection (b), Section 51.309, Government Code, is amended to read as follows:

(b) Except as provided by Subsection (c), the [The] district clerk shall obtain a surety bond to cover a deputy clerk or a schedule surety bond or a blanket surety bond to cover more than one deputy and all employees of the office. A deputy clerk and an employee must be covered on the same conditions and in the same amount as the district clerk. The bond covering the deputies and employees shall be made payable to the governor for the use and benefit of the district clerk.

SECTION 6. Section 51.309, Government Code, is amended by adding Subsection (c) to read as follows:

(c) In lieu of the bond required by Subsection (b), the county may self-insure against losses that would have been covered by the bond.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 9, 1987, by the following vote: Yeas 31, Nays 0. Passed the House on April 23, 1987, by the following vote: Yeas 139, Nays 0, one present not voting.

Approved May 7, 1987.

Effective May 7, 1987.