

AN ACT CREATING THE FIDELITY-BOND PREMIUM FUND; PROVIDING FOR ASSURANCE AGAINST LOSSES, SHORTAGES, AND DEFALCATIONS BY OFFICERS OR EMPLOYEES ACCOUNTABLE FOR PUBLIC FUNDS AND P...

Act No. 1739, October 03, 1907

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By authority of the United States, be it enacted by the Philippine Commission, that :

SECTION 1. There is hereby appropriated, out of any funds in the Insular Treasury not otherwise appropriated, the sum of forty thousand pesos, to be known as the "Fidelity-bond premium fund." This fund shall be a permanent reimbursable appropriation and shall be available—

- (a) For the purpose of replacing losses, shortages, or defalcations in the accounts of all Insular and provincial officers and employees and officers and employees of the city of Manila who are accountable for public funds or public property, unless such officers or employees have been relieved under the provisions of existing law;
- (b) For the purpose of shortages, or defalcations in the accounts of municipal treasurers who are at the same time deputies of the provincial treasurer, unless such officers have been relieved in like manner;
- (c) For the refund of unearned premiums on bonds executed prior to December thirty-first, nineteen hundred and seven, when such refund would have been properly chargeable against the fund created by Act Numbered Fourteen hundred and sixteen, entitled "Fidelity-bond premiums," and abolished in the next succeeding section :
- (d) For the payment of all fees and costs accruing as a result and in consequence of any civil action or proceeding taken against any bonded officer or employee, within the meaning of this Act, who has suffered losses in the public funds or public property for he is accountable, or who has defaulted, or in whose accounts of public property shortages may be discovered which have arisen from whatever cause: Provided, however, That whenever any person suffers loss in money or property intrusted to any officer or agent of the Government bonded in the fidelity-bond fund who by virtue of his official position and in accord-law, received such money or property, the head of the Office concerned and the Insular Auditor may, after g and fixing the amount of the loss, recommend that as be repaid out of the fidelity-bond premium fund. Upon approval of such recommendation by the Governor-General the Treasurer shall pay the amount so recommended and of said fund.

SEC. 2. The permanent reimbursable appropriation entitled "Fidelity-bond premiums." and created by Act Numbered Fourteen hundred and sixteen, entitled "An Act making appropriations for expense of the Insular Government for the fiscal year ending June thirteenth, nineteen hundred and six, and other designated periods," is hereby abolished, and any balances standing to the of said appropriation and all moneys which are due to said rial ion and remain unpaid on December thirty-first, nineteen if and seven, and all sums paid to cover or replace shortages, and defalcations and afterwards recovered, and all payments from provinces or municipalities and from bonded officers or employees on account of fidelity-bond premiums, and all prepaid out of funds or appropriations of Insular Offices or is under section ten of this Act, and all interest or other e money in the said fidelity-bond premium fund, in. accrue to, and become a part of said fidelity-bond created in the preceding

section.

SEC. 3. The Governor-General shall fix, and may from time to time change, annual rate of premium chargeable for insurance premium fund. of officers and employees in the fidelity-bond premium fund. Two-thirds of the rate of premium so fixed shall be changed to the fidelity-bond premium fund on behalf of every Insular Officer or employee, and in the case of provincial officers or employees and officers and employees of the city of Manila two-thirds of said premium shall be paid by the province

SEC. 4. The Philippine Commission may, by resolution, exempt Exemptions, any accountable officer or employee from the payment of his part of the bond premium, and any officer or employee now exempted from such payment shall continue to be so exempted unless and until the Philippine Commission, by resolution, shall otherwise determine.

SEC. 5. It shall be the duty of the Insular Treasurer to prepare and keep an exact and accurate record of bonded positions in such manner and in such detail as may be required by the Secretary of Finance and Justice, and to make such changes in said record from time to time as changing facts and conditions may require.

SEC. 6. Whenever an appointment or designation is made to any bonded Insular or provincial position, or to a bonded position under the city of Manila, or to the dual office of municipal and deputy provincial treasurer, the person so appointed or designated shall ipso facto be deemed to lie a bonded officer or employee within the meaning of this Act. and his liability as such shall begin on the day on which he enters upon the discharge of the duties of such position; and his liability for the payment of his share of the premium, and, if he be a provincial officer or employee or an officer or employee of the city of Manila, or a municipal and deputy provincial treasurer, the liability of the province, the city of Manila, or the municipality, as the case may be, for its share of the bond premium of such person shall begin on such day. No formal application on the part of any person occupying a bonded position shall be deemed necessary to make him such bonded officer or employee, but the fact of his acceptance of the position and of his entrance upon the discharge of the duties of such position shall be deemed to carry with it his consent to be placed upon the schedule of bonded officers and employees, and to the assumption of all duties, premium charges, liabilities, and penalties by law attached to such position: Provided, That the liabilities, responsibilities, and duties of all persons occupying bonded positions within the meaning of this Act on January first, nineteen hundred and eight, shall begin on said day and the liability for the payment of their share of the fidelity bond premium and the like liability of the provinces, the city of Manila and municipalities shall likewise begin on said day: And provided further, That premiums shall be due and payable semi-annually in advance, and no refund made from the fund hereby created, but refund of unearned premiums shall be made to the officer or agent who has paid the same (a) upon retirement from the service, by his successor, or in case there is no successor from the appropriations or funds of the Bureau or Office concerned ; (b) in cases where by reason of illness or other cause an acting officer or agent is appointed and bonded, from the appropriations or funds of the Bureau or Office concerned, the intent of this law being that two bonds shall not exist for the same office at the same time.

SEC. 7. The chief of the Bureau or Office to which any bonded position, now in existence or hereafter created, may pertain, shall at once, and without delay, notify the Insular Treasurer of the appointment or designation of any person to fill or discharge the duties of such position, in the provinces this duty shall be performed by the provincial treasurers, in the Moro Province by the provincial treasurer of that province, and in Manila by the secretary of the Municipal Board. Such notification shall contain the title or designation of the position, the name of the person appointed or designated, the name of the person relieved, the financial or property accountability pertaining to the position and the maximum of public funds, or the total value of the public property likely to be in the hands of the incumbent at any one time, the salary attached to the position, the amount of the bond required of

the position by law or authoritative regulation, if any, and if not, a recommendation as to the amount, the date of the relief of the preceding incumbent from the duties of such position, and the date on which the person appointed or designated assumes charge. Such notification shall also state the opinion of the appointing officer of the business and moral qualifications of the person appointed or designated for the position in question and any such other information in the possession of the appointing officer as may have a bearing upon the amount of the bond to be required or as may be asked for by the Insular Treasurer. Upon receipt of this information the Insular Treasurer shall place the name of such person upon the record provided for in section five of this Act and shall notify the chief of Bureau or head of Office of the action taken: Provided, however, That the Insular Treasurer, if in his judgment the character associations, or habits of the insured person do not constitute such person a safe and conservative risk, may report the facts to the Governor for proper action.

SEC. 8. When an official is acting in the dual capacity of deputy officials acting in of the provincial Treasurer and municipal treasurer, notification thereof, as prescribed in section seven of this Act, shall at once and without delay be forwarded to the Insular Treasurer by the provincial treasurer whose deputy such official is, and in such cases the provisions of section seventeen of Act Numbered Eighty-two, as amended, shall not apply. The Insular Auditor, shall fix the amount of the bond of such officer upon the recommendation of the provincial treasurer, and one-half of the premium chargeable shall be paid by the province and the other half by the municipality. It shall be the duty of the provincial treasurer, subject to the supervision of the Insular Auditor, to collect from the various municipalities in his province, the treasurers of which are deputies of the provincial treasurer and from the individuals who are his deputies, the amounts respectively due as bond premiums, and to forward the same to the Insular Treasurer.

SEC. 9. Whenever any official, employee, or agent shall be designated by the proper authority temporarily to perform the duties of the head of a Bureau or Office or of any subordinate office or the duties of any employment under any office, Bureau, or province in accordance with section fifteen of Act Numbered sixteen hundred and ninety-eight, all fidelity and premium charges which shall be paid wholly from the appropriation or funds of the Department, Bureau, Office, province or municipality, as the case may be, in which the services are rendered.

SEC. 10. all persons whose names are listed on the record required in section five of this Act to be made and kept shall be deemed to be bonded to the Government of the Philippine Islands for the faithful performance of all duties now or hereafter imposed by law upon the positions occupied by them, and for the faithful accounting for all public funds and public property coming into their possession, custody, or control by appropriation, collection, transfer or in any other manner, and for the lawful payment, disbursement, expenditure, or transfer of all public funds or public property in their hands, possession, or custody or under their control as accountable or responsible officers: Provided, however, That the conditions governing the accountability of provincial treasurers shall continue and remain as fixed in section five of Act Numbered Eight-three, known as "the Provincial Government Act," as amended, and section four of Act Numbered Thirteen hundred and ninety-six, known as "The Spacial Provincial Government Act," as amended

SEC. 11. Every person whose name is or has been listed on the record or schedule of names of bonded positions provided for in this Act shall be deemed to be or to have been a "bonded officer" or a "bonded employee" within the meaning of Act Numbered Sixteen hundred and five, entitled "An Act forbidding, under penalty bonded officers or bonded employees, or former bonded officers or bonded employees, of the Insular Government, or of any provincial or municipal government in the Philippine Islands, or the city of Manila, from leaving or attempting to leave the Philippine Islands without first securing a certificate from the Insular Auditor, and repealing Act Numbered Eleven hundred and sixty-one," and within the meaning of every oilier Act in force fixing the responsibility, accountability, liability, duties, or penalties of officers or employees who were

heretofore required to give bond for the faithful performance of their duties and the accounting for public funds or public property.

SEC. 12. The Insular Auditor shall fix the amount for which the of various positions contemplated in this Act shall be bonded. The Auditor shall determine the exact amount of losses, shortages, and defalcations which may be found in the accounts of any bonded officers, employees, or agents, whether of money or property, the amount to be paid in order to replace such losses, shortages, or defalcations, and the account or accounts of the Bureau, Office, province, or municipality to which such sums shall be paid from the fidelity-bond premium fund. When the Auditor has determined such amount ho shall certify the same to the Insular Treasurer, who shall thereupon issue a warrant therefor.

SEC. 13. The powers and duties vested in the Insular Auditor by sections forty-three and fort-y-four of the Accounting Act are hereby extended in their entirety to the fidelity-bond premium fund. investment of Sec. 14. The moneys in the fidelity-bond premium fund may be invested by the Insular Treasurer, with the approval of the Governor-General, in any or all of the ways in which the funds of the Philippine Postal Savings Bank may be invested by the Postal Savings Bank Investment Board under authority of section eighteen of Act Numbered Fourteen hundred and ninety-three, as amended.

SEC. 15. The provisions of this Act shall not be applicable to sheriffs of provinces or to provincial governors acting as sheriffs.

Sec. 16. Section twenty-three of Act Numbered One hundred and thirty-six, as amended, is hereby amended to read as follows:

"SEC. 23. The governor of the province, or, if he declines to act as sheriff, any person lawfully appointed to the position of sheriff, shall, before being qualified to perform the duties of sheriff or officer of the court, execute a bond, with not less than three sureties, running to the Government of the Philippine Islands, for the benefit of whom it may concern, in the penal sum of twenty thousand pesos. The sureties on said bond shall qualify under oath before the judge of the Court of First Instance, or, in his absence, before the clerk of the court. The bond shall be conditioned for the faithful performance of the duties of himself and his deputies as sheriff and officer of the court, and for the payment to the Government or the persons entitled thereto of all sums of money "that shall come into bis or their hands officially. Its form shall-be prescribed by the Auditor, who shall approve and forward it to. the Insular treasurer for file. The bond shall bear an indorsement of the provincial treasurer stating that after due investigations and to the best of his knowledge and belief, the sureties collectively own real property in the sum of twenty thousand pesos, free from incumbrances and over and above any liabilities owing by them. The bond shall thereupon be forwarded to the Insular Treasurer and. after his approval, be kept on file in his office. The bond shall be available for the benefit of the Government and of any person in interest. Until the bond has been approved by the Auditor the officer shall not be entitled to any fees for services performed, but the Auditor's approval shall be effective as of the date of the bond. The governor or sheriff may require each deputy appointed by him in execute a sufficient indemnity for his protection against any wrongdoing on the part of such deputy."

SEC. 17. Act Numbered Two hundred and forty-nine, entitled "An Ad requiring all officers and employees who shall receive and have of money in the discharge of their official duties to nine bond:" Act Numbered Four hundred and sixty-four, entitled "An Ad vesting the insular Treasurer with power to increase or diminish the bonds of public officials, with the approval of the Civil governor:" Act Numbered Six hundred and twenty-six, entitled "An Act providing that when any official or employee of the Government shall be designated to perform the duties of another official or employee, in accordance with Act Numbered Four hundred and eight, he shall be reimbursed for such additional expense as he shall he obliged to incur for bond by reason of such designation: and making this Act retroactive;" Act Numbered Seven hundred and ninety-nine, entitled "An Act immediately to

reimburse from the Insular Treasury the treasuries of provinces which have suffered loss through defalcations of their bonded officials, pending recovery of amounts lost on the official bonds," and Act Numbered One thousand and ninety-seven, entitled "An Act relating to the payment of the premium charges upon the bonds of bonded Insular, provincial, and municipal officers and employees," are hereby repealed.

SEC. 18. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with .section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth. nineteen hundred.

SEC. 19. This Act shall take effect on December thirty-first, nineteen hundred and seven, with the approval of the Secretary of War first had and obtained.

Enacted, October 3, 1907.

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