

AN ACT CREATING THE FIDELITY FUND, AND REPEALING ACT NUMBERED SEVENTEEN HUNDRED AND THIRTY-NINE, AS AMENDED.

Act No. 2436, December 28, 1914

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By authority of the United States, be it evaded by the Philippine Legislature, that:

SECTION 1. There is hereby created a permanent reimbursable appropriation to be known as the fidelity fund which shall be administered by the Insular Treasurer, and which shall be available for the following purposes:

- (a) To replace losses, shortages, and defalcations in the accounts of all public officers and employees bonded under this Act, it being the purpose to indemnify against all losses, shortages, and defalcations fairly arising under the head of fidelity insurance.
- (b) To pay such expenses of administration and operation of the fidelity fund as may be incurred in carrying out the purposes of this Act.

SEC. 2. There is hereby appropriated for and as the permanent capital of said fidelity fund the sum of fifty thousand pesos out of any moneys in the Insular Treasury not otherwise appropriated; and all accretions and gains by way of premiums, interest, earnings, or otherwise accruing in the operation of the fidelity fund shall pertain to said fund until the combined capital and net earnings shall amount to one hundred thousand pesos. Any excess thereof shall revert to the general funds: Provided, That in case the total claims payable from the fidelity fund shall at any time exceed the capital and net earnings pertaining thereto, the amount necessary to cover such deficit shall be advanced from the general surplus of the Insular Government until such time as the overdraft shall have been offset by the future net earnings of the fund.

SEC. 3. The Governor-General shall fix, and may from rate of time to time change, the annual rate of premium chargeable for insurance of the fidelity of officers and employees in the fidelity fund and the rate so fixed shall be uniform throughout the service. Said premium shall be paid by the Bureau, Office, province, municipality, or other governmental unit to which the bonded position may pertain: Provided, That one-third of said premium shall be repaid by the officer or employee to the Bureau, Office, province, or municipality, or other branch of the Government concerned except in those cases in which an officer or employee is exempted by virtue of the provisions of this law. When an official is acting in a bonded capacity for two or more governmental units, the governmental share of the premium on his bond shall be borne by the respective units served in such proportion as the Insular Auditor shall determine.

SEC. 4. Any and all claims against the fidelity fund shall be made or forwarded to the Insular Auditor together with the evidence relating thereto, and if he shall recommend payment of the same, or a part thereof, and such recommendation shall receive the approval of the Governor-General, the same shall be a legal claim against the fidelity fund and shall be paid, but not otherwise.

SEC. 5. All bonds shall be approved in form, amount, and sufficiency by the insular Auditor. It shall be the duty of the Insular Treasurer to prepare and keep an accurate record of bonded positions, and to prescribe such rules and regulations, subject to approval by the Secretary of Finance and Justice, as may be necessary to effectuate fully the purposes of this Act.

SEC. 6. Whenever an appointment or designation is made, becomes effective by election and due qualification should any law so provide, to any bonded position or employment in the public service, the., appointee shall ipso facto be deemed a bonded officer or employee; his liability shall begin with the discharge of his duties, and the premium shall be calculated as of said date; and it shall not be necessary to await the formal application for bond in order to have the protection and security of the fidelity fund to the branch of the Government concerned.

SEC. 7. The chief of the Bureau or Office concerned, the provincial and municipal treasurers, respectively, and the secretary of the Municipal Board of the city of Manila, shall in all cases and without delay, upon the appointment or designation of a bonded official or employee, or an acting or temporary appointee, notify the Insular Treasurer thereof by mail; and all changes or vacancies in personnel, however occurring, shall be at once so communicated, and this provision may be enforced by such administrative measures as may be necessary to compel and enjoin strict compliance herewith. The Insular Treasurer, if in his judgment the character, associations, or habits of the person bonded do not constitute a conservative risk may report the facts or reasons for such judgment to the Governor-General for his action.

SEC. 8. All persons, whose offices or employment are listed by the Insular Treasurer as aforesaid shall be deemed as bonded for the faithful performance of all duties now or hereafter imposed by law upon 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 otherwise, as well as for the lawful payment, disbursement, expenditure, or transfer of all such public funds or property in their possession or custody or under their control as accountable or responsible officers.

SEC. 9. In all cases where a loss or defalcation has been made good from the fidelity fund the Government shall pursue such civil remedies in the courts for recovery against the principal or obligor upon the bond as may best serve the public welfare, and may attach the goods and chattels, moneys, and effects, lands, and property of every kind, which were of such absconding or defaulting officer or employee, and shall have any and all remedies which a private creditor might have notwithstanding the penal prosecution for the crime committed, if any, and the proceeds shall revert to the fidelity fund.

SEC. 10. The moneys in the fidelity fund may be deposited by the Insular Treasurer at interest in any Government depository, or may be invested, with the approval of the Governor-General, in such securities and loans as may be readily convertible.

SEC. 11. The governor of the province, or, if he declines Provincial sheriff. 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 such penal sum as shall be fixed by the Insular Auditor. 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 his 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 investigation, and to the best of his knowledge and belief, the sureties collectively own real property in double the amount of the bond, free from incumbrances and over and above any liabilities owing by them. The bond shall thereupon be forwarded to the Insular Treasurer and 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 to execute a sufficient indemnity for his protection against any wrongdoing on the part of such deputy.

SEC. 12. The Philippine Commission may, by resolution, exempt 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. 13. Whenever any official, employee, or agent shall be designated by the proper authorities 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 due or accrue on account of such temporary designation shall be paid wholly from the appropriation or funds of the Department, Bureau, province, or municipality, as the case may be, in which the services are rendered.

SEC. 14. Act Numbered One thousand seven hundred and thirty-nine, as amended, is hereby repealed and all funds now on deposit under that Act shall be at once reverted to the general unappropriated surplus funds of the Government. All Acts or parts of Acts inconsistent herewith are repealed.

SEC. 15. This Act shall take effect December thirty-first, nineteen hundred and fourteen.

Enacted, December 28, 1914.

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