

GUIDANCE DOCUMENT

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STATEMENT OF POLICY #15

FINANCIAL INSTITUTION BOND COVERAGE

The Nebraska Department of Banking and Finance ("Department") sets forth Statement of Policy #15 regarding financial institution bond coverage required by Neb. Rev. Stat. § 8-110 of the Nebraska Banking Act.

Neb. Rev. Stat. § 8-110 states in part:

The department shall require each state bank to obtain a fidelity bond, naming the bank as obligee, in an amount to be fixed by the department. The bond shall be issued by an authorized insurer and shall be conditioned to protect and indemnify the bank from loss which it may sustain, of money or other personal property, including that for which the bank is responsible through or by reason of the fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction, misapplication, misappropriation, or any other dishonest or criminal act of or by any of its officers or employees. Such bond may contain a deductible clause in an amount to be approved by the director. An executed copy of the bond shall be filed with and approved by the director and shall remain a part of the records of the department.

Setting the amount of bond coverage is a task for the bank's board of directors. Department Examiners will review bond coverage to determine that the bond is sufficient.

Section 8-110 clearly establishes that the Department shall require each state bank to obtain a fidelity bond. The Nebraska Attorney General's office has previously advised that this statutory language cannot be interpreted to allow a multiple bank/entity bond unless each bank individually has the full protection of the bond. In those instances, where more than one bank/entity is to be covered under the bond, a rider is necessary that clearly states that each bank is separately covered up to the full amount of the coverages under the bond and that payments for losses involving a Nebraska state-chartered bank are to be made to the Nebraska state-chartered bank (party) incurring the loss.

A fidelity bond's joint insured language often does not comply because it will state losses will be paid to the first named insured. In these cases, a rider is necessary stating that checks/payments made for losses incurred by the state-chartered bank are made payable to the insured state-chartered bank and not to another party/insured on the bond.

The Department requires that the state bank being insured be identified by the address of the bank's charter; i.e., the street, city, state where typically the main office of the bank is located.

Detailed below are coverages typically provided in Standard Form No. 24 Financial Institution Bond.

Clause (A) – Fidelity

Coverage (A) covers losses as a result of dishonest or fraudulent acts of officers and employees, attorneys retained by the bank, and non-employee data processors while they are performing services for the insured.

Clause (B) – On Premises

Loss of property (as defined in the bond) resulting directly from (1) robbery, burglary, misplacement, mysterious unexplained disappearance and damage or destruction, or (2) theft, false pretense, common law or statutory larceny committed by a person on the premises of the insured, while the property is located at the bank.

Clause (C) – In Transit

The loss of property in Clause (C) is identical to Clause (B) above, except the property is covered while it is in transit. The property must be in the custody of a person acting as a messenger of the bank while the property is in transit.

Clause (D) – Forgery or Alteration

Clause (D) provides coverage for any loss due to forgery or alteration of, on, or in any checks, drafts, acceptances, withdrawal orders and other instruments received over the counter or through clearings.

Clause (E) – Securities

Clause (E) provides coverage for any (1) loss due to forgery, loss, or alteration of certain named securities; (2) loss due to such bank having guaranteed or witnessed signatures on certain named instruments and securities; and (3) loss due to such bank having acquired, sold or delivered, or given value, extended credit or assumed liability on certain named securities or other instruments.

Clause (F) – Counterfeit Currency

Clause (F) covers loss resulting from the receipt by the insured in good faith, of any counterfeit or altered money of the United States or Canada or any foreign country in which the insured maintains a branch office.

Clause (G) – Fraudulent Mortgages

Clause (G) coverage is provided for loss resulting directly from having accepted or acted upon the faith of any real property mortgage which proves defective by reason of a fraudulent signature.

Coverage Available by Rider

The following are additional areas of coverage that are often available by rider or insuring agreement that the Board of Directors may want to consider:

Computer Systems Fraud

The rider covers loss resulting directly from a fraudulent entry of electronic data or computer program info, or change of electronic data or computer program with a computer system covered under terms of the rider.

Extortion – Threats to Persons

The rider covers loss of property surrendered away from an office of the insured as a result of a threat communicated to the insured to do bodily harm to a director, trustee, employee or partner of the insured or a relative of theirs who was, or allegedly was, kidnapped anywhere.

Extortion – Threats to Property

The rider covers loss of property surrendered away from an office of the insured as a result of a threat communicated to the insured to do damage to the premises or property of the insured located anywhere.

Servicing Contractors Insuring Agreement

The rider covers loss through any dishonest or fraudulent act committed by any servicing contractor as defined in the rider.

Transit Cash Letter Insuring Agreement

The rider covers loss resulting directly from the physical destruction or other loss of an item enclosed in a transit cash letter provided such item is still missing 21 days after the insured learns that the item has not arrived at the destination.

Unattended Automated Teller Machine Coverage

The rider covers loss or damage to an ATM machine through burglary and other perils.

Fraudulent Transfer Instructions Insuring Agreement

The rider covers loss directly from the transfer of money on deposit in a customer's account or of a customer's certificated or uncertificated securities upon a fraudulent instruction transmitted to the insured via telephone, telefacsimile or electronic mail.

Other Rider Coverage May Include: Stop Payment, Computer Programmer, Electronic Intruder Theft, and Remote Deposit Capture Duplicate Deposit & Forgery.

Amount of Coverage

Determining the amount of coverage under Clause (A) is a challenging task. The risk exposure under Clause (A) is influenced by many factors. The Board of Directors should include the cash and securities normally on hand, fields of business it is engaged in, the number, experience level, turnover and level of authority of the employees, the scope of data processing activities, internal controls, and related items in the factors it considers in determining the Clause A coverage and in determining additional coverage obtained. The amount of coverage may be influenced by schedules developed by banking associations or the insurance industry that focuses on an institution's deposit size.

The Department examiners will review Clauses (A) through (G) of the insurance coverage. A bank is only required to maintain Clause (A) through (C), and (F). However, a bank should consider Clauses (D), (E), and (G) if the coverage will benefit the bank.

The Board of Directors must determine the bank's bond coverage and document the discussion in the minutes of the Board. The Board should formally review bond coverage no less frequently than every two years and when the bank is considering/entering into a new field of business or initiating significant changes in its operations.

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