



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

March 1, 1999

Jim Ryan

ATTORNEY GENERAL

FILE NO. 99-002

STATE MATTERS:

Adequacy of Surety Bond Coverage
for Officer of State Agency

Mr. Tim G. Bobinsky
Executive Director
Illinois Rural Bond Bank
427 East Monroe, Suite 202
Springfield, Illinois 62701

Dear Mr. Bobinsky:

I have your letter wherein you state that a finding was made in the annual audit of the Illinois Rural Bond Bank that the \$50,000 surety bond in effect for the executive director/treasurer of the Rural Bond Bank does not provide adequate coverage. With respect to this finding, you ask whether the executive director is obligated to obtain a larger bond, given that the amount of the surety bond is in compliance with the statutory requirements. For the reasons hereinafter stated, it is my opinion that because the surety bond in question satisfies the requirements established by the General Assembly, there is no obligation to obtain additional coverage. Whether the statutory

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amount of the bond should be increased is a matter that is left to the determination of the General Assembly.

As stated in your letter, the annual audit report recommends that the executive director/treasurer's bond should be in an amount sufficient to cover the largest liquid asset balance during a fiscal year. In the 1997 fiscal year, this liquid asset balance was \$9,600,000. Obviously, the current \$50,000 bond would cover only a fraction of those assets.

The executive director of the Illinois Rural Bond Bank (hereinafter referred to as "Rural Bond Bank") also serves as both its treasurer and its secretary. (30 ILCS 360/2-2(c) (West 1996).) The requirements of the surety bond for the executive director are set forth in subsection 2-2(d) of the Rural Bond Bank Act (30 ILCS 360/2-2(d) (West 1996)), which provides, in pertinent part:

" * * *

(d) Before issuing any bonds or notes under this Act, each public commissioner shall execute a surety bond in the penal sum of \$25,000, and the executive director of the Bank shall execute a surety bond in the penal sum of \$50,000. The surety bonds shall be:

(1) Conditioned upon faithful performance of the duties of the office of the commissioner or executive director;

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(2) Executed by a surety company authorized to transact business in the State as surety;

(3) Approved by the Attorney General;
and

(4) Filed in the office of the Secretary of State.

* * *

"

(Emphasis added.)

You have noted that the executive director's bond has been obtained pursuant to subsection 2-2(d) of the Act. Alternatively, the executive director of the Rural Bond Bank is eligible to fulfill the bond requirement pursuant to section 14.1 of the Official Bond Act (5 ILCS 260/14.1 (West 1996)), which provides as follows:

"Wherever State officers, State employees or officers, trustees, members or employees of any department, board, bureau, commission, university, authority, or other unit of State government are required by law, now or hereinafter enacted, to obtain a fidelity or surety bond or bonds to qualify for office, the bonding requirement shall be satisfied by a blanket bond or bonds contracted for as provided in the Illinois Purchasing Act, by the Department of Central Management Services or by a program of self-insurance established by such Department."

Under section 14.2 of the Official Bond Act (5 ILCS 260/14.2

(West 1996)), if a blanket bond is obtained, its coverage must be

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equal to or greater than the bond amount set by the applicable bonding statute for the officer in question:

"The penal sum of the blanket bond or bonds shall be fixed by the Director of Central Management Services with the approval of the Governor and shall satisfy the bonding requirements of other laws, heretofore or hereinafter enacted, if the blanket bond amount or amounts per loss are equal to or greater than the bond amount required per person in said other laws. * * *" (Emphasis added.)

It is well established that, in construing a statute, the plain meaning of the language employed is the best indication of legislative intent and, where that language is unambiguous, it must be given effect as written. In re B.C. (1997), 176 Ill. 2d 536, 542.

Under the plain and unambiguous language of subsection 2-2(d) of the Rural Bond Bank Act, the penal sum of the bond prescribed for the executive director is \$50,000. If the bond coverage is obtained pursuant to section 14.1 of the Official Bond Act, the amount per loss covered by the blanket bond must be equal to or greater than the \$50,000 coverage required under subsection 2-2(d). Although section 14.2 provides for bond coverage that may be greater than the amount designated by the relevant bond statute, there is no requirement that a higher amount of coverage be obtained or provided.

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The audit apparently bases its recommendation upon standard business practices and, from that standpoint, the conclusion that the amount of the bond is insufficient to secure the assets of the Rural Bond Bank may well be valid. It is equally clear, however, that the \$50,000 surety bond covering the executive director is in full compliance with the applicable statutory requirements established by the General Assembly.

In opinion No. S-1131, issued July 26, 1976 (1976 Ill. Att'y Gen. Op. 249), Attorney General Scott considered the bond requirements for the State Treasurer and observed that the General Assembly has been accorded discretionary authority with respect to establishing requirements for public officials' bonds:

" * * *

With regard to the Illinois Constitution of 1970, section 20 of article V provides only that:

'Civil officers of the Executive Branch may be required by law to give reasonable bond or other security for the faithful performance of their duties. If any officer is in default of such a requirement, his office shall be deemed vacant.'

It is evident from this that the matter of official bonds has been left to the discretion of the legislature.

* * *

(1976 Ill. Att'y Gen. Op. 249, 250.)

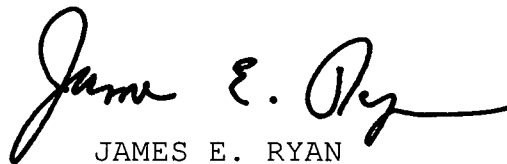
"

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Because the requirement of furnishing an official bond, as well as the terms and conditions thereof, is a matter which rests solely within the discretion of the General Assembly, compliance with the amount of bond coverage specified by law is all that is required of an officer.

Accordingly, it is my opinion that a surety bond in the penal sum of \$50,000 is legally sufficient for the executive director of the Rural Bond Bank. It may be advisable, however, for the General Assembly to consider carefully whether the coverage requirements for the executive director should be increased to reflect standard business practices in accordance with the auditor's recommendation.

Sincerely,

A handwritten signature in cursive script, reading "James E. Ryan". The signature is written in dark ink and is positioned above the printed name and title.

JAMES E. RYAN
ATTORNEY GENERAL