

10-2-16. Surety bond fund. (2000)

Statute text

- A. There is created in the state treasury a "surety bond fund".
- B. Money deposited in the surety bond fund may be expended by the department:
- (1) to provide surety bond coverage;
 - (2) to create a retention fund to cover all or any portion of the surety bond risks of state agencies and covered educational entities;
 - (3) to pay claims of state agencies and covered educational entities covered by a surety bond certificate of coverage issued by the department; and
 - (4) to pay any costs and expenses of carrying out the provisions of this section.
- C. Claims against the surety bond fund shall be made in accordance with a certificate of coverage issued by the department to each state agency and covered educational entity. If the secretary has reason to believe that the surety bond fund would be exhausted by the payment of all claims allowed against the fund during a particular state fiscal year, the amounts paid for each claim shall be prorated with each state agency and covered educational entity receiving an amount equal to the percentage that its claims bear to the total of claims outstanding and payable from the fund. Any amounts due and unpaid as a result of such proration shall be paid in the following fiscal years.
- D. The department shall collect or transfer funds from each state agency and covered educational entity to cover costs of coverage of employees of the agency as required by this section. Money collected or transferred from a state agency or covered educational entity pursuant to this subsection shall be deposited in the surety bond fund. Income from the surety bond fund shall be credited to the fund.
- E. The department may provide individual surety bond coverage protecting employees who are employers or supervisors from personal losses for which they may be responsible, which losses were caused by the lack of honesty or faithful performance of employees under their supervision or control.
- F. The department shall have the right to recover from a public employee for any loss under the Surety Bond Act [10-2-13 NMSA 1978] for which the public employee was responsible.
- G. The risk management advisory board shall review:
- (1) specifications for all surety bond coverage to be purchased by the department;
 - (2) the form and legal sufficiency of any surety bond coverage to be purchased by the department; and
 - (3) the form, purpose and content of any surety bond certificate of coverage to be issued by the director.

History

History: 1953 Comp., § 5-2-16, enacted by Laws 1978, ch. 132, § 4; 1986, ch. 102, § 3; 1989, ch. 324, § 4; 1996 (1st S.S.), ch. 3, § 2; 2000, ch. 27, § 1.

Annotations

Repeals and reenactments. — Laws 1978, ch. 132, § 4, repealed 5-2-16, 1953 Comp. (former 10-2-16 NMSA 1978), relating to terms and conditions of surety bonds, and enacted a new 10-2-16 NMSA 1978.

10-2-15. Surety bond coverage. (1986)

Statute text

A. The department shall provide surety bond coverage for all employees. Whenever an employee is required by another law to post bond or surety as a prerequisite to entering employment or assuming office, the requirement is met when coverage is provided for the office or position under the provisions of the Surety Bond Act [10-2-13 NMSA 1978]. Notwithstanding any other provisions of law, no state agency or employee shall purchase any employee surety bond other than pursuant to the provisions of the Surety Bond Act.

B. The secretary shall prescribe the amount of surety bond coverage by class of employee.

C. All or any part of the amount of surety bond coverage prescribed by the secretary may be covered by a schedule or blanket corporate surety bond.

D. The department may provide coverage for employees of covered educational entities through insurance, self-insurance or a combination thereof.

History

History: 1953 Comp., § 5-2-15, enacted by Laws 1978, ch. 132, § 3; 1986, ch. 102, § 2.

Annotations

Repeals and reenactments. — Laws 1978, ch. 132, § 3, repealed 5-2-15, 1953 Comp. (former 10-2-15 NMSA 1978), relating to surety bonds required, and enacted a new 10-2-15 NMSA 1978.

ANNOTATION

Intent to cover all state officers and employees. — This section, by its language, "Notwithstanding any other provision of law," evidences legislative intent that the Surety Bond Act controls surety bond coverage of all state officers and employees. 1987 Op. Att'y Gen. 87-42.

10-2-14. Definitions. (1986)

Statute text

As used in the Surety Bond Act [10-2-13 NMSA 1978]:

- A. "department" means the general services department;
- B. "director" means the director of the risk management division of the department;
- C. "employee" means any officer or employee of the state, including elected or appointed officials and persons acting on behalf or in service of a state agency in any official capacity whether with or without compensation, but the term does not include an independent contractor;
- D. "secretary" means the secretary of general services;
- E. "state agency" means the state or any of its branches, agencies, departments, boards, instrumentalities or institutions;
- F. **"surety bond coverage" means:**

(1) a schedule or blanket corporate surety bond payable to the state and conditioned on the faithful performance of the duties of each employee during his employment or term of office or until his successor is elected or appointed and is qualified and on a proper accounting for all money and property in his official capacity as a state employee; or

(2) a certificate of surety bond coverage issued by the director covering all or any part of the risk set forth in Paragraph (1) of this subsection; and

G. "covered educational entity" means a school district as defined in Section 22-1-2 NMSA 1978 or an educational institution established pursuant to Chapter 21, Article 13, 16 or 17 [repealed] NMSA 1978 which requests and is granted surety bond coverage from the risk management division of the general services department, if the coverage is commercially unavailable; except that coverage shall be provided to a school district only through the public school group insurance authority or its successor unless the district has been granted a waiver by the authority or the authority is not offering the coverage for the fiscal year for which the division offers its coverage. A local school district to which the division may provide coverage may provide for marketing and servicing to be done by licensed insurance agents who shall receive reasonable compensation for their services.

History

History: 1953 Comp., § 5-2-14, enacted by Laws 1978, ch. 132, § 2; 1984, ch. 49, § 1; 1986, ch. 102, § 1.

Annotations

Repeals and reenactments. — Laws 1978, ch. 132, § 2, repealed 5-2-14, 1953 Comp. (former 10-2-14 NMSA 1978), relating to definitions used in the Surety Bond Act, and enacted a new 10-2-14 NMSA 1978.

Compiler's notes. — Chapter 21, Article 17 NMSA 1978, referenced in Subsection G, was repealed by Laws 1999, ch. 219, effective July 1, 1999.