

**COMMONWEALTH OF VIRGINIA**

**FAITHFUL PERFORMANCE OF DUTY**  
**BOND PLAN**

**Administered by**

Department of the Treasury  
Division of Risk Management

# **Commonwealth of Virginia**

## **Faithful Performance of Duty Bond Plan**

The Commonwealth of Virginia, Department of the Treasury, Division of Risk Management, in accordance with the requirements of §§ 2.2-1840, 2.2-1841, 8.01-588.1 and 15.2-1527 through 15.2-1533 of the *Code of Virginia*, as amended (“*Code*”), with the approval of the Governor, hereby establishes the terms and conditions of this Faithful Performance of Duty Bond Plan (hereafter referred to as the “Plan”) for the benefit of the parties specified by statute.

The Division of Risk Management (“DRM”) is not an insurance company and this Plan is not insurance, as those terms are defined in § 38.2-100 of the *Code*. DRM is, instead, a division of a state agency, the Department of the Treasury, that finds its authority to act from the statutory provisions of the *Code*.

DRM shall have final responsibility for interpretation and determination of coverage under the Plan.

### **I. COVERAGE**

The Plan will pay for losses to the Commonwealth or, as applicable, to a locality caused by any Covered Party’s failure to perform duties as prescribed by law or to account for monies and property as required law.

In no event shall the Plan respond to Clerks of the Circuit Court for monies held that are subject to bonding required under § 2.2-1841 of the *Code* except to the extent of the limits specifically set forth herein.

In no event shall the self-insured portion of this Plan respond in any way to any loss where commercial bond coverage is required by statute or otherwise available for the coverage of any such loss.

### **II. LIMITS OF LIABILITY**

State elected officials and employees, including members of commissions, boards and authorities under the requirements of § 2.2-1840(A) shall be bonded to a maximum of five hundred thousand dollars (\$500,000) or the limits set in the *Code*. As determined by statute, these limits may be amended or other positions and amounts added.

The attorney for the Commonwealth, the treasurer and the commissioner of the revenue, or the director of finance performing the duties and exercising the powers thereof in any county adopting any form of county organization and

government provided for in Chapter 5 (§ 15.2-500 et seq.) or Chapter 8 (§ 15.2-800 et seq.) of Title 15.2 of the *Code* as if such county had not adopted such form of county organization and government and had continued to have these officers shall be bonded to a maximum of five hundred thousand dollars (\$500,000), or the limits set in the *Code*.

General Receivers and Clerks of the Circuit Courts shall be bonded to the amount required under § 8.01-588.1 of the *Code* or a maximum of five hundred thousand dollars (\$500,000).

### **III. WHO IS COVERED**

A Covered Party shall mean any (1) state official or employee required by the *Code* to be bonded, (2) state employee handling or having access to funds whose function, in the opinion of the state agency's head with the concurrence of DRM, should be bonded, (3) local employees required by §§ 2.2-1840(B) and 15.2-1527 of the *Code* to be bonded, (4) superintendents and jail officers of regional jail facilities as described in § 53.1-110 of the *Code*, and (5) the attorney for the Commonwealth, the treasurer and the commissioner of the revenue, or the director of finance performing the duties and exercising the powers thereof in any county adopting any form of county organization and government provided for in Chapter 5 (§ 15.2-500 et seq.) or Chapter 8 (§ 15.2-800 et seq.) of Title 15.2 of the *Code* as if such county had not adopted such form of county organization and government and had continued to have these officers. The coverage of the positions listed in this paragraph apply only when the individuals are discharging their duties on behalf of the public office or position they hold.

Those who are required by law or contract to post a separate bond shall not be considered covered by this Plan.

### **IV. NOTICE AND PROOF OF LOSS**

Notice of any known or suspected potential loss shall be reported to DRM, the Auditor of Public Accounts and the Department of State Police as soon as practicable. Proof of loss shall be reasonable documentation as required by either the Auditor of Public Accounts or DRM. This proof of loss shall substantiate the amount of money to be reimbursed the Commonwealth by the Plan.

Submit loss information, proof of loss and other claim information to:

**Department of the Treasury  
Director, Division of Risk Management  
P. O. Box 1879  
Richmond, VA 23218-1879**

**V. PRIOR BONDS**

Should events giving rise to a loss occur in both the period of any prior purchased bond and after the inception of this Plan, the most the Plan will pay is its prorated share of the loss, if applicable limits are the same, or the portion of the loss not covered by the prior bond. In no event will the total recovery exceed the limit applicable in the Limits of Liability section of this Plan.

**VI. OTHER COVERAGE**

This Plan is written so as to specifically recognize that any coverage under this Plan arises solely from statutory mandate to DRM under the provisions of §§ 2.2-1840 and 2.2-1841 of the *Code*. Thus, a Covered Party is hereby advised that, if at the time of loss there is any other commercial bond, coverage, insurance or self-insurance available to the Covered Party that covers any such loss or that could have covered any such loss, this Plan shall not apply to such loss. Other coverage, commercial bond, insurance or self insurance includes, but is not limited to, surety bonds, policies of insurance or programs of self-insurance purchased or established by or on behalf of the Covered Party to insure against liability arising from the activities of the Covered Party, regardless of whether or not the policy or program provides primary, excess, excess over excess, umbrella, or contingent coverage and regardless of the deductible or retention, if any, of any other coverage, commercial bond, insurance or self-insurance plan.

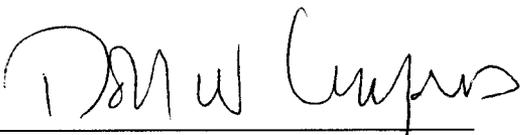
**VII. COOPERATION**

The Covered Party under this Plan, the Commonwealth and, as applicable, the locality of the Covered Party shall cooperate fully and completely in any investigation, claim, action or proceeding relative to any bond claim involving them or their activities.

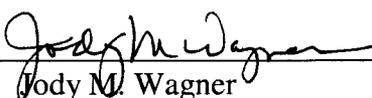
**VIII. SUBROGATION**

In the event of any payment under this Plan, the Plan shall be subrogated to the rights to recover either on behalf of the Commonwealth, the Plan or, if applicable, the locality of the Covered Party.

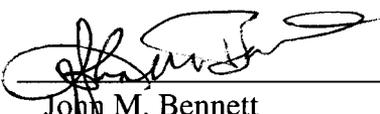
IN WITNESS THEREOF, the Department of the Treasury, Division of Risk Management, with the approval of the Governor, has executed this Plan to be effective immediately upon the signature of the Governor or his designee.

BY:   
Don W. LeMond, Director  
Division of Risk Management

**APPROVED**

BY:   
Jody M. Wagner  
State Treasurer

**APPROVED**

BY:   
John M. Bennett  
Secretary of Finance

**APPROVED BY THE GOVERNOR**

  
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DATE: 1/6/05