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To: Dawn Cragon, Ashtabula County Treasurer  
From: Catherine Colgan, Assistant Prosecutor, Civil Division  
Date: Tuesday, May 19, 2020  
Re: Dishonesty and Faithful Performance of Duty Policy

Ms. Cragon:

This is in response to your March 24, 2020 request for information regarding “what if anything [your] office is to file and carefully preserve in the event of the election by a political subdivision for a dishonesty and faithful performance of duty policy.”

Ohio Revised Code §3.061, effective 3/20/2019, provides: “A political subdivision may adopt a policy, by ordinance or resolution, to allow for the use of an employee dishonesty and faithful performance of duty policy, rather than a surety bond, to cover losses caused by the fraudulent or dishonest actions of, and the failure to perform a duty prescribed by law for, officers, employees, or appointees that would otherwise be required to give an individual surety bond to qualify for the office or employment before entering upon the discharge of duties imposed by the office or employment.” Unlike when surety bonds are utilized, there is no express or implied authority to accept and preserve filings of employee dishonesty and faithful performance of duty policies.

“The county auditor and county treasurer of a county are creatures of statute. They can exercise only such powers as are expressly delegated by statute, together with such implied powers as are necessary to carry into effect the powers expressly delegated.” State ex rel. Kuntz v. Zangerle, 130 Ohio St. 84, 89, 197 N.E. 112, 115 (1935). Therefore, it is the opinion of this office that the county treasurer may not accept and preserve proof of dishonesty/faithful performance insurance policies. Please note that that the filing/preservation requirement remains when/where a bond is used.

Very truly yours,

**CECILIA M. COOPER**  
**PROSECUTING ATTORNEY**



Catherine R. Colgan  
Assistant Prosecutor – Civil Division