



## Ohio Revised Code

### Section 1521.061 Surety bond conditioned on satisfactory completion of project in accordance with terms of permit and plans and specifications.

Effective: October 3, 2023

Legislation: House Bill 33

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(A)(1) Except as otherwise provided in this section, the chief of the division of water resources shall not issue a construction permit under section 1521.06 of the Revised Code unless the person or governmental agency applying for the permit executes and files a surety bond conditioned on completion of the dam or levee in accordance with the terms of the permit and the plans and specifications approved by the chief. Except as provided in division (A)(2) of this section, the surety bond shall equal:

(a) \$50,000 for the first \$500,000 of the estimated cost of the project; plus

(b) Twenty-five per cent of the estimated cost for the next \$4,500,000 of the estimated cost of the project; plus

(c) Ten per cent of the estimated cost that exceeds \$5,000,000.

(2) The chief may reduce the amount of the required surety bond to the amount equal to the cost estimate of construction activities necessary to render the dam nonhazardous if the cost estimate is provided by the applicant and approved by the chief.

(B) If a permittee requests an extension of the time period during which a construction permit is valid in accordance with rules adopted under section 1521.06 of the Revised Code, the chief shall determine whether the revised construction cost estimate provided with the request exceeds the original construction cost estimate that was filed with the chief by more than twenty-five per cent. If the revised construction cost estimate exceeds the original construction cost estimate by more than twenty-five per cent, the chief may require an additional surety bond to be filed in an amount determined in accordance with division (A) of this section based on the revised construction cost estimate.



(C) The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by the attorney in fact thereof, with a certified copy of the power of attorney attached. The chief shall not approve the bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

All bonds shall be given in a form prescribed by the chief and shall run to the state as obligee.

(D)(1) The applicant may deposit, in lieu of a bond, cash in an amount equal to the amount of the bond or negotiable certificates of deposit issued by any bank organized or transacting business in this state having a par value equal to or greater than the amount of the bond. Such cash or securities shall be deposited upon the same terms as bonds. If one or more certificates of deposit are deposited in lieu of a bond, the chief shall require the bank that issued any such certificate to pledge securities of the aggregate market value equal to the amount of the certificate that is in excess of the amount insured by the federal deposit insurance corporation. The securities to be pledged shall be those designated as eligible under section 135.18 of the Revised Code. The securities shall be security for the repayment of the certificate of deposit.

(2) Upon a deposit of cash or certificates of deposit, the chief shall hold them in trust for the purposes for which they have been deposited. If the applicant deposits cash, the cash shall be credited to the performance cash bond refunds fund created in section 1501.16 of the Revised Code. An applicant making a deposit of cash or certificates of deposit may withdraw and receive, from the chief, all or any portion of the cash or certificates of deposit upon depositing with the chief other negotiable certificates of deposit issued by any bank organized or transacting business in this state equal in par value to the par value of the cash or certificates of deposit withdrawn. An applicant may demand and receive from the chief all interest or other income from any such certificates as it becomes due. If certificates so deposited with and in the possession of the chief mature or are called for payment by the issuer thereof, the chief, at the request of the applicant who deposited them, shall convert the proceeds of the redemption or payment of the certificates into other negotiable certificates of deposit issued by any bank organized or transacting business in this state, or cash as the applicant designates.

(E)(1) When the chief finds that a person or governmental agency has failed to comply with the



conditions of the person's or agency's bond, the chief shall make a finding of that fact and declare the bond, cash, or certificates of deposit forfeited in the amount set by rule of the chief. The chief shall thereupon certify the total forfeiture to the attorney general, who shall proceed to collect that amount.

(2) In lieu of total forfeiture, the surety, at its option, may cause the dam or levee to be completed as required by section 1521.06 of the Revised Code and rules of the chief, or otherwise rendered nonhazardous, or pay to the chief the cost thereof.

(F)(1) All moneys collected on account of forfeitures of bonds, cash, and certificates of deposit under this section shall be credited to the dam safety fund created in section 1521.06 of the Revised Code. The chief shall make expenditures from the fund to complete dams and levees for which bonds have been forfeited or to otherwise render them nonhazardous.

(2) Expenditures from the fund for those purposes shall be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in the contract.

(G) A surety bond shall not be required for a permit for a dam or levee that is to be designed and constructed by an agency of the United States government, if the agency files with the chief written assurance of the agency's financial responsibility for the structure for one year following the chief's approval of the completed construction provided for under division (E) of section 1521.06 of the Revised Code.