

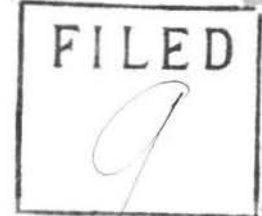
County Collectors Bond: ✓

October 27, 1933.

Where an additional or new bond is required of the present County Collector the amount thereof is to be calculated as prescribed by Laws 1933 page 464, Section 1, which law repeals and reenacts the old Section 9885 R. S. Mo. 1929 which was heretofore applicable.

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See 9885 Laws 33



Mr. Joseph M. Bone, Jr.
Prosecuting Attorney
Mexico, Missouri.

Dear Mr. Bone:

We have received your letter of October 24, 1933, in which was contained a request for an opinion as follows:

"The present collectors bond of Audrain County, as required by the County Court was set at approximately \$430,000.00. He gave a personal bond to qualify. Since giving this bond, two of the sureties are deceased, some have made assignments of their property, and others have become insolvent.

"The County Court wishes to require an additional Bondsman. As I understand the law, this requires the giving of a new bond. The sections applicable are sections 9885, 9892 and 9893, R. S. of Mo. 1929.

"Also, section 9885 R.S. of Mo. 1929 was amended by the laws of 1933, page 464, which makes the minimum requirement of the bond, to be "in a sum equal to the largest total collections made during any one month of the year proceeding his election or appointment, plus ten percent of said amount". This amendment makes the minimum requirement less than that required in the original section 9885 R.S. of Mo. 1929.

"Kindly advise me whether if an additional or new bond is given, the original or the amended section is applicable."

We have no hesitation in holding that the amended section Laws 1933, page 464, is the section to be followed in ascertaining the amount of the collector's bond required.

Section 1, Laws 1933, page 464, reads in part as follows:

"Section 1. Repealing and reenacting Section 9885:
That Section 9885 of Article VIII, Chapter 59, Revised Statutes of Missouri for 1929, be and the same is hereby repealed and a new section enacted in lieu thereof to be known and numbered Section 9885 and to read as follows:

Section 9885 Collectors bond - Conditions - Every Collector of revenue in the various counties of this state, etc., etc."

The new law is then set out changing the requirement as to the amount of the bond. This law, in accordance with Article IV, Section 36, of the Constitution of Missouri, went into effect ninety days after the adjournment of the session at which it was enacted. The old law ceased to exist and only the new law remained. The County Court in its requirements as to these bonds is limited to the letter of the present law as it stands in the statutes.

The above is true whether it has to do with the accepting of new bonds from new collectors or the requiring of additional security from old ones. In this connection we quote from the opinion of the Supreme Court of Missouri in the case of State vs. Ward, 40 S.W. 2nd 1074 at page 1078 as follows:

"In Brown vs. Marshall, 241 Mo. 707, 145 S. W. 810 l.c. 815, this court ruled:

'A subsequent act of the Legislature repealing and reenacting, at the same time, a pre-existing statute, is but a continuation of the latter, and the law dates from the passage of the first statute and not the latter. State ex rel vs. Mason, 153 Mo. 23, l. c. 58-59, 54 S. W. 524; State ex rel vs. County Court, 53 Mo. 128, l. c. 129-130; Smith vs. People, 47 N. Y. 330.'

And this is true even though the new section 8246 of Rev. St. 1929 contained modifications of the repealed sections. State vs. Bradford, 314 Mo. 684, 285 S. W. 496."

The above quoted case decided on July 3, 1931, is, we feel, controlling on this question. In addition, the obvious intent of the legislature in reenacting the above section was to give some relief to the collectors in the matter of giving bonds. One of the basic principles of law in this state as in all states is that all rules of interpretation of statutes are subordinate to that of requiring determination of the legislative intent. See State vs. Schwartzmann

Service Inc. 40 S. W. 2nd 479, l. c. 480.

Very truly yours,

Charles M. Howell, Jr.,
Assistant Attorney General.

Approved:

Attorney General.