

Suretias, on Bond. Bond, Sureties on.

Where more than three sureties sign a bond required by Sec. 3003, Revised Codes, each may justify in an amount less than the penal sum of the bond, but the total amount to which they justify must equal three times the penal sum of the bond.

March 11th, 1913.

Hon. X. K. Stout,
County Attorney,
Kalispell, Montana.

Dear Sir:

I beg to acknowledge receipt of your letter under date of the 6th inst., submitting the following questions:

"In the event of a bond being given under said section, purporting to be for, say, \$100,000, to secure the sum of \$50,000 deposit, must there be three sureties in the full sum of \$100,000 each, or, if a larger number of sureties than three, must the total amount be equivalent to that of three sureties for the full amount?"

You have referred in your letter to Sec. 3003 of the Revised Codes, providing that the county treasurer shall require a bond in double the amount deposited signed by three or more good and sufficient sureties. Sec. 7195, Revised Codes, requires that each surety must make affidavit that he is worth the sum specified in the bond, over and above all his just debts and liabilities exclusive of property exempt from execution. The effect of these two sections is that there shall exist, over and above the just debts and liabilities of the sureties and exclusive of property exempt from execution, property equal to three times the penal sum of the bond to which the county might look for satisfaction of the condition of the bond. This amount of property to which the county may look for the satisfaction of the condition of the bond should not be, in my opinion, decreased by increasing the number of sureties. It is therefore my opinion that where more than three sureties sign the bond, they may each justify for amounts less than the penal sum of the bond, but the whole amount should not be equivalent to that of three sufficient sureties, to-wit: three times the penal sum of the bond.

You are aware, however, that if a surety company be offered as surety upon the bond, it alone will be sufficient under the provisions of Sec. 2, Chap. 139, of the Laws of 1909.

I take this opportunity also to call your attention to the fact that a bill has been passed by the general assembly, providing that all deposits shall bear interest. This bill, which is Senate Bill No. 29, is now in the hands of the governor for his approval or veto.

Very truly yours,

D. M. KELLY,
Attorney General.