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STATE OF ILLINOIS
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FILE NO. S-1251

OFFICERS:

Use of Indemnification
Agreement to Satisfy
Requirement That Deputy
Collectors Provide Bond
or Security

Honorable Dennis J. Jacobsen
State's Attorney
Monroe County
County Court House
Waterloo, Illinois 62298

Dear Mr. Jacobsen:

I have your letter concerning a collector's authority to require his deputies to give bond or other security for the protection of the collector. Specifically, you inquire whether section 184 of the Revenue Act of 1939 (Ill. Rev. Stat. 1975, ch. 120, par. 665) would permit a county collector to accept an indemnification agreement from a bank in lieu of a commercial bond. The terms of the suggested indemnification

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agreement, as you have outlined them, provide that the county collector would be indemnified by the bank should a deputy collector, who is also an employee of that bank, do any act causing loss or damage to the county. For the reasons hereinafter stated, it is my opinion that the suggested indemnification agreement is a permissible alternative under the appropriate statutory provision.

Section 184 of the Revenue Act of 1939 (Ill. Rev. Stat. 1975, ch. 120, par. 665) provides as follows:

"§ 184. Collectors may appoint deputies by an instrument in writing, duly signed, and may also revoke any such appointment at their pleasure; and may require bonds or other securities from such deputies, to secure themselves. And each such deputy shall have like authority, in every respect, to collect the taxes levied or assessed within the portion of the taxing district assigned to him, which by this Act is vested in the collector himself; but each collector shall, in every respect, be responsible to the State, taxing districts and individuals, companies or corporations, as the case may be, for all moneys collected and for every act done by any of his deputies, whilst acting as such, and for any omission of duty of such deputy. Any bond or security taken from a deputy by a collector, pursuant to this Act, shall be available to such collector, his representatives and securities, to indemnify them for any loss or damage accruing from any act of such deputy."
(Emphasis added.)

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The phrase "may require bonds or other securities", as that phrase is employed in section 184, is permissive. The section authorizes but does not compel the collector to require bonds or other securities from deputy collectors, and, as the statute clearly indicates, bonds or securities obtained from deputies are solely for the protection of the collector.

Because the bond or security is solely for the protection of the collector, its sufficiency should be a matter for determination by the collector. The suggested indemnification agreement takes a form similar to an indemnity bond and would appear to be included within the definition of the phrase "bonds or other securities". If the collector is satisfied with the protection afforded him by such an indemnification agreement, he is free to accept such an arrangement. He is equally free to require a commercial bond, or to require no bond or security whatsoever from his deputies.

Very truly yours,

A T T O R N E Y G E N E R A L