

## **Opinion No. 65-171**

September 2, 1965

**BY:** OPINION OF BOSTON E. WITT, Attorney General Wayne C. Wolf, Assistant Attorney General

**TO:** Mr. Alex J. Armijo, State Auditor, State Capitol Building, Santa Fe, New Mexico

### **QUESTION**

#### QUESTION

Since Chapter 287, Laws of 1965 requires that the official bond of a state agency or local public body include coverage for chattels of the agency, should the amount of surety bond coverage be more than the express amount required by the specific statutes requiring the bond in order to afford complete coverage of the inventory?

#### CONCLUSION

No, however claims on inventory may be made on the bond.

### **OPINION**

#### {\*285} ANALYSIS

Before answering your question we point out that the bond for public officials should now include coverage of inventories even though the specific statute requiring the bond does not so state. See Attorney General's Opinion 59-164. As that opinion suggests all official bonds to be executed in the future should contain express provisions covering inventories.

The question you have presented raises a problem of harmonizing two different statutory provisions, Chapter 287, Laws of 1965 and those provisions which set the amount of official bond for public officials. It is a general and well regarded rule of statutory construction that repeals by implication are not favored. Every attempt must be made to harmonize two statutory provisions which seemingly conflict. In this particular instance we find that we have a later general enactment and several earlier specific enactments on the same subject. It is well established that when a general provision tends to conflict with a specific provision on the same subject, the courts will hold that the specific provision controls. In this instance that conclusion is enhanced because it is possible to give effect to both statutory sections by providing that inventory is covered although the coverage may be limited. In addition we note that the legislature could have modified the specific statutory sections to permit complete coverage of inventory if that had been the legislative intention. It is therefore our opinion that the dollar limit of

the bonds remains the same as now provided, but claims on inventory may be made on the bond.

We also point out that for those statutory sections where the amount of the bond is not limited but is subject to board or commission approval, the bond may be set in an amount which would provide complete coverage of inventory. It is only where a specific limit is provided in the statute that the amount of the bond will be insufficient to cover inventory.