

are involved. It has been quite generally held that these riders, especially when written in long hand, or typewritten, instead of being printed, will control the interpretation of the contract rather than the terms of the printed form to which they are attached. *Brazilian Export & Import Co. vs. Fireman's Fund Insurance Company*, 174 N. Y. S., 265, *Old Colony Life Insurance Company vs. Hickmon*, 315 Ill., 304.

After considerable search, I have found no decided cases involving the question of the effect of these riders when attached to a contract after it has been partly executed. It seems reasonable, in my opinion, that the attaching of a rider to a contract after the contract has gone into effect, and even after it has been partially executed, amounts to a modification of the contract in accordance with the terms of the rider, and is to that extent virtually the making of a new contract.

Were it not for the proviso of the statute in question authorizing the substitution of a new undertaking, there is little doubt but that county commissioners could not consent lawfully to the varying of the terms of an undertaking given to secure depository accounts, once it had been given, inasmuch as the statute provides that the undertaking shall remain in full force and effect until the deposits secured thereby are withdrawn in total. The statute, however, specifically authorizes the depository to furnish and substitute a good and sufficient new undertaking when deposits have been increased or diminished, to secure those deposits under the changed conditions, and it is my opinion that the attaching of a rider, with the consent of all parties, to a former undertaking, is virtually the substitution of a new undertaking. The word "new" should not be construed in a technical sense, as it is not necessary to do so to carry out the object of the provisions of the statute, in which it is used.

I am therefore of the opinion that when deposits in a county depository bank or trust company are secured by the bond of a fidelity or indemnity insurance company, and those deposits are increased or diminished, the depository may lawfully attach a rider to said undertaking, whereby it is provided that the said undertaking shall be held as security for an amount only, which is not less than the sum then on deposit, or an amount which, together with other securities duly and legally hypothecated, shall not be less than the sum on deposit after the same has been increased or diminished, as the case may be.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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3936.

APPROVAL, BONDS OF VILLAGE OF MIDDLEBURG HEIGHTS, CUYA-  
HOGA COUNTY, OHIO—\$53,000.00.

COLUMBUS, OHIO, January 9, 1932.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*