# WEST VIRGINIA CODE: §12-1-14

**§12-1-14. Banking Services for Medical Cannabis.**

(a) The Legislature finds and declares that the inability to provide banking services needed to collect and remit the fees, penalties, and taxes authorized under the West Virginia Medical Cannabis Act has delayed the implementation and is precluding access by the patients potentially eligible to be prescribed medical cannabis and investment by the persons and entities interested in providing services under the Act. The purpose of this section is to provide a solution to the banking problems encountered by the state in connection with the Act.

(b) The following words when used in this section shall have the following meanings, unless the context clearly indicates otherwise,

(1) "Act" means the West Virginia Medical Cannabis Act in §16A-1-1 et seq. of this code;

(2) "Financial institution" means a bank, national banking association, a non-bank financial institution, a bank and trust company, a trust company, a savings and loan association, a building and loan association, a mutual savings bank, a credit union or a savings bank;

(3) "Non-bank financial institution" means a financial institution that does not have a banking license or is not supervised by a state, national or international banking regulatory agency. If a non-bank financial institution is a selected financial institution, it shall post a collateral bond of not less than 125 percent of the amounts on deposit with the Treasurer in lieu of any other collateral requirement in this article.

(4) "Selected financial institution" means a financial institution selected by the Treasurer under this section to receive, invest, and disperse the fees, penalties, and taxes authorized under the Act;

(5) "Treasurer" means the State Treasurer.

(c) The Treasurer shall select by competitive bid one or more financial institutions to provide banking services for the fees, penalties, and taxes collected under the Act and is authorized to pay any fees charged by a selected financial institution. A contract awarded by the Treasurer under the section may be extended as long as the Treasurer determines an extension is in the best interest of the state. A financial institution selected shall meet the requirements of this chapter for a state depository and any other applicable requirements of this section.

(d) The Medical Cannabis Program Fund authorized in §16A-9-2 of this code shall receive all civil penalties collected under §16A-12-8 of this code. Any method of receipt, remittance, payment, or transfer authorized by the Treasurer are acceptable under the Act.

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(e) The Treasurer's office may authorize the Medical Cannabis Program Fund be held in one or more accounts at a selected financial institution outside the treasury until the Treasurer is able to lawfully transfer moneys to the main disbursement account of the state. Moneys in the Medical Cannabis Program Fund may be invested by a financial institution or the West Virginia Board of Treasury Investments and earnings shall accrue to the Medical Cannabis Program Fund.

(f) The Treasurer may charge fees for providing banking services under the Act, including without limitation, fees for expenses incurred, oversight, and compliance. The Treasurer's Medical Cannabis Fund is hereby created to receive all fees charged by the Treasurer. The Treasurer may authorize the Treasurer's Medical Cannabis Fund held in an account at a selected financial institution outside the treasury until the Treasurer is lawfully able to transfer moneys to the main disbursement account of the state. When the financial institution holding the state concentration account will accept the medical cannabis funds of the state, the Treasurer shall transfer the funds and close the accounts created under this section. Moneys in the Treasurer's Medical Cannabis Fund shall be expended for the expenses incurred, oversight and compliance, and may be invested by a financial institution or the West Virginia Board of Treasury Investments with earnings accruing to the fund.

(g) The Enterprise Resource Planning Board shall configure wvOASIS to allow deposit in, investing moneys in, and making payments from the accounts established by the Treasurer pursuant to this section at a selected financial institution.

(h)(1) Actions taken under and in accordance with this section shall not be considered unlawful under any provision of this code.

(2) The Commissioner of Financial Institutions shall not prohibit, penalize, incentivize, or otherwise impair a financial institution from providing services to a person or entity involved in a medical cannabis-related business functioning under the Medical Cannabis Act solely because the person or entity is a grower, processor, dispensary, owner of any proportion, operator, employee, patient, caregiver, family or household member, financial broker, or other similar person or entity of a medical cannabis-related business operating in accordance with the Medical Cannabis Act: Provided, That nothing in this section shall prohibit the Commissioner of Financial Institutions from enforcing applicable laws and regulations related to ensuring the safety and soundness of a financial institution.

(3) No cause of action exists against the Treasurer and the state officers and employees involved in cannabis-related banking or financial services, in their personal capacities, while acting within the scope of duties contemplated by this Article or the Act. Any recovery for claims or actions arising from this Article is limited solely to the proceeds of available insurance coverage.

(4) To the extent permitted by law, the State of West Virginia shall defend the Treasurer and the state officers and employees involved in cannabis-related banking or financial services against any claims, charges, liabilities or expenses and shall indemnify and hold harmless

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the Treasurer and any state employee involved in cannabis-related banking or financial services provided within the scope of their duties or employment in accordance with the Act, including without limitation, defense in any state, federal, or local court and payment of the amount of any judgment obtained, damages, legal fees and expenses, and any other expenses incurred.

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