

# WEST VIRGINIA CODE: §12-5-6

## **§12-5-6. When notes deemed securities; appraisal.**

(a) Whenever, by statute of this state, any public official, board, commission or department of this state is charged with the approval of securities required as collateral for the deposit of public or other funds, or required to be deposited with the State Treasurer, or an investment of capital or surplus or a reserve or other fund, is required to be maintained consisting of designated securities deposited with the State Treasurer, the securities shall, at the discretion of that public official, board, commission or department, include and mean notes executed by the person or corporation required to make the deposit. The securities shall be made payable to the State of West Virginia upon demand, or in the event of the person or corporation, for the benefit of those for whom the securities are deposited, when the notes are secured by duly executed deeds of trust on improved, unencumbered real property located in the state and owned by the person or corporation executing the notes, the deeds of trust to be approved by the Attorney General of the state as to sufficiency of form and manner of execution and accompanied by proper abstracts of title and fire insurance policies equal to the amounts of the notes and recorded among the land records of the county in which the real property is located. Whenever any note so secured by a deed of trust on real property owned by any person or corporation is approved by any public official, board, commission or department of this state, the real property shall have an appraised value of at least thirty per centum more than the amount of the note. The value of the property shall be determined by an appraisal of two landowners, who are citizens of this state and generally recognized as experienced real estate appraisers, appointed by the public official, board, commission or department, charged with the approval of the securities. The expenses of the appraisal are to be borne by the person or corporation required to make the deposit, and each unit of that real property shall have an appraised value of at least \$50,000.

For purposes of this section, "improved real property" means all real property within the limits of an incorporated city or town on which permanent buildings suitable for residential, industrial or commercial use are located.

For purposes of this section, real property shall not be deemed to be encumbered by reason of the existence of instruments reserving rights-of-way, sewer rights and rights in walls, nor by reason of building restrictions or other restrictive covenants, nor by reason of the fact that it, or any part thereof, is subject to lease under which rents or profits are reserved to the owner: Provided, That the deed of trust for such investment is a full and unrestricted first lien upon the property.

(b) Any public official, board, commission or department of this state charged with the approval of securities required to be deposited in accordance with this section, shall, at least annually and more often if deemed proper, appoint a disinterested person or persons, not exceeding three, to make an examination and appraisal of the securities deposited to

determine if those securities meet the requirements of the law of this state. The cost of that examination and appraisal and expenses shall be borne by the person or corporation required to make the deposits as security: Provided, That the total cost and expenses shall not be less than \$10 nor more than \$25 per diem for each person conducting the examination.