WEST VIRGINIA CODE: §19-2A-8

§19-2A-8. Applicant for permit to furnish surety bond for benefit of consignors; form of surety bond.

Before the granting of any such permit, the applicant shall execute and deliver to the commissioner a surety bond conditioned as the commissioner may require and acceptable to him payable to the State of West Virginia, for the benefit of the consignors at said market of livestock, poultry, and other agricultural and horticultural products, who have been wronged or damaged by any fraud or fraudulent practices of the market and so adjudged by a court of competent jurisdiction and who shall have the right of action for damage for compensation against such bond. A holder of a permit, who shall have been in operation not less than twelve months, shall maintain and deliver such bond to said commissioner as aforesaid in an amount not to exceed one hundred twenty percent of the average of its sales during the preceding calendar year. A holder of a permit, who shall have been in operation less than twelve months, shall maintain and deliver such bond to said commissioner as aforesaid in an amount established by the commissioner, but in no case shall the bond be less than the average bond maintained by all other public markets in the state that have been in operation more than twelve months.

The form of the bond shall be approved by the commissioner and may include, at the option of the applicant, surety bonding, collateral bonding (including costs and securities), establishment of an escrow account or a combination of these methods. If collateral bonding is used, the operator may elect to deposit cash or collateral securities or certificates as follows: Bonds of the United States or its possessions, of the federal land bank or of the homeowners' loan corporation; full faith and credit general obligation bonds of the State of West Virginia, or other states, and of any county, district or municipality of the State of West Virginia or other states; or certificates of deposit in a bank in this state, which certificates shall be in favor of the department. The cash deposit or market value of such securities or certificates shall be equal to or greater than the sum of the bond. It shall be the duty of the applicant to ensure the market value of such bonds are sufficient. The commissioner shall, upon receipt of any such deposit of cash, securities or certificates, promptly place the same with the treasurer of the State of West Virginia whose duty it shall be to receive and hold the same in the name of the state in trust for the purpose for which the deposit is made when the permit is issued. The applicant making the deposit shall be entitled from time to time to receive from the state Treasurer, upon the written approval of the commissioner, the whole or any portion of any cash, securities or certificates so deposited, upon depositing with him in lieu thereof, cash or other securities or certificates of the classes herein specified having value equal to or greater than the sum of the bond.

WV Legislature