WEST VIRGINIA CODE: §31A-8-13

§31A-8-13. Banking institution not to be surety; hypothecation and other dealings with securities and assets limited.

No banking institution shall become or be accepted as surety on any bond or undertaking required by the laws or by the courts of this state or any other state or shall become surety or guarantor of any person for the discharge of any duty in any position or the performance of any contract or undertaking. No banking institution shall pledge, hypothecate or deliver any of its assets of any description whatsoever to any person to indemnify him as surety for such banking institution or as surety for any other person. But a bank may pledge, hypothecate, deliver or deposit securities to guarantee deposits of the United States, or any agency or instrumentality thereof, the State of West Virginia, or any agency or instrumentality thereof, or any county, district, municipal corporation or other governmental agency or instrumentality, and the deposits of a bankrupt's estate made pursuant to an order of a court of bankruptcy, and, with the consent in writing of the commissioner of banking, may pledge, hypothecate, deliver or deposit securities or assets to guarantee deposits made by receivers of closed or insolvent banking institutions; and the receiver of a closed or insolvent banking institution, if the proceeding be not in court, with the consent in writing of the commissioner of banking, and if the proceeding be in court, with the consent in writing of the commissioner of banking and the approval of the court, may accept securities or assets of a banking institution to secure deposits made by such receiver. In every such case, the hypothecation of such securities or assets shall be by proper legal transfer as collateral security to protect and indemnify by trust any and all loss in case of any default on the part of the banking institution in its capacity as a depository for any such deposits as aforesaid, and such collateral security shall be released only by order of record of the public officer or public body, or by the receiver of a closed or insolvent banking institution, if the proceeding be not in court, with the consent in writing of the commissioner of banking, and if the proceeding be in court, with the consent in writing of the commissioner of banking and the approval of the court, when satisfied that full and faithful accounting and payment of all the moneys has been made under the provisions hereof. The public officer or public body, or the receiver of a closed or insolvent banking institution, shall make ample provision for the safekeeping of such hypothecated securities or assets, and the interest thereon when paid shall be turned over to the banking institution, so long as it is not in default as aforesaid.

The foregoing shall not prevent the hypothecation of the securities or assets of any banking institution to secure the repayment of money borrowed from another banking institution; nor shall the foregoing prevent a bank's indemnification of its officers, directors or employees by purchase of insurance or otherwise, to the extent that such indemnification is permitted to that institution under federal law. Indemnification articles or bylaws must conform to, or be more restrictive than, that set forth in section nine, article one, chapter thirty-one of this code. The commissioner reserves the right to prohibit or limit, by regulation or order, any indemnification payment for reasons of safety and soundness or nonconformity to the bank's

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articles of incorporation or bylaws or to the restrictions placed on indemnification contained in this section or other applicable state law.

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