WEST VIRGINIA CODE: §32A-2-10

§32A-2-10. Bond.

(a) A person who is licensed under this article shall post a bond with a qualified surety company doing business in this state that is acceptable to the commissioner. The bond shall be in the amount of $100,000 for a licensee which issues or sells checks or money orders, or which engages in currency exchange; or $300,000 for a licensee which engages in receiving money for transmission by wire, facsimile, or electronic transfer, or which engages in currency transportation. A licensee which engages in multiple types of these activities shall post the higher amount. A merchant obtaining a license solely to engage in the check cashing business not incidental to the main business of the merchant as required by §32A-3-1 *et seq*. of this code shall post a bond of $100,000. The bond required by this subsection shall be increased at the time of license renewal by one percent of the annual volume of business the licensee conducts in this state exceeding $10 million rounded to the nearest thousand, as reported by the licensee: *Provided*, That in no event shall the bond exceed $1 million.

(b) No cash deposit or pledge of cash equivalent in instruments or securities may be accepted in lieu of the bond required by subsection (a) of this section.

(c) A bond posted by a licensee shall be conditioned upon compliance with the provisions of this article and any rules thereunder for as long as the person holds the license. The deposit or bond, as the case may be, shall be made to the State of West Virginia for the benefit and protection of any claimant against the applicant or licensee with respect to the receipt, handling, transmission, and payment of money by the licensee or authorized delegate in connection with the licensed operations in this state. A claimant damaged by a breach of the conditions of the bond or deposit shall, upon the assent of the commissioner, have a right of action against the bond or deposit for damages suffered thereby and may bring suit directly thereon, or the commissioner may bring suit on behalf of the claimant. The aggregate liability of the surety in no event shall exceed the principal sum of the bond.

(d) A penalty fee under §32A-2-5(a)(5) of this code, expenses under §32A-2-11 of this code, or a civil penalty under §32A-2-19 of this code may be paid out of and collected from the proceeds of a bond under this section.

(e) After receiving a license, the licensee shall maintain the required bond until five years after it ceases to do business in this state unless all outstanding transactions are cleared or covered by the provisions of §36-8-1 *et seq*. of this code pertaining to the distribution of unclaimed property which have become operative and are adhered to by the licensee. Notwithstanding this provision, however, the commissioner may permit the bond to be reduced following cessation of business in the state to the extent the amount of the licensee's checks/payment instruments outstanding in this state are reduced.

WV Legislature

(f) If the commissioner at any time reasonably determines that the required bond or deposit is insecure, deficient in amount, or exhausted, in whole or in part, he or she may in writing require the filing of a new or supplemental bond in order to secure compliance with this article and may demand compliance with the requirement within 30 days following service on the licensee. The total amount of the bonds required of the licensee may not, however, exceed the $1 million set forth in subsection (a) of this section.

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