WEST VIRGINIA CODE: §38-2-39

§38-2-39. Public building; bond of contractor; recordation of bond; no lien in such case.

It shall be the duty of the state commissioner of public institutions, and of all county courts, boards of education, boards of trustees, and other legal bodies having authority to contract for the erection, construction, improvement, alteration or repair of any public building or other structure, or any building or other structure used or to be used for public purposes, to require of every person to whom it shall award, and with whom it shall enter into, any contract for the erection, construction, improvement, alteration or repair of any such public building or other structure used or to be used for public purposes, that such contractor shall cause to be executed and delivered to the secretary of such commissioner or other legal body, or other proper and designated custodian of the papers and records thereof, a good, valid, solvent and sufficient bond, in a penal sum equal at least to the reasonable cost of the materials, machinery, equipment and labor required for the completion of such contract, and conditioned that in the event such contractor shall fail to pay in full for all such materials, machinery, equipment and labor delivered to him for use in the erection, construction, improvement, alteration or repair of such public building or other structure, or building or other structure used or to be used for public purposes, then such bond and the sureties thereon shall be responsible to such materialman, furnisher of machinery or equipment, and furnisher or performer of such labor, or their assigns, for the full payment of the full value thereof.

No officer or employee of this state or of any public agency, public authority, public corporation, or other public entity, and no person acting or purporting to act on behalf of such officer or employee or public entity shall require that any surety bond required or permitted by this section be obtained from any particular surety company, agent, broker or producer.

All such bonds shall have as surety thereon either some incorporated bonding and/or surety company authorized to carry on business in this state, or in lieu of such corporate surety the contractor may deposit as security for such bond with the said state commissioner of public institutions, county court, Board of Education, board of trustees or other legal body having authority so to contract, a sum in cash or bonds and securities of the United States of America or of the State of West Virginia of sufficient amount and value equal at least to the reasonable cost of materials, machinery, equipment and labor required for the completion of such contract. Immediately upon the acceptance of either of said bonds by the state commissioner of public institutions, county court, Board of Education and board of trustees, or other legal body, the bond shall be recorded by the secretary of such commissioner or other legal body, or by the proper designated custodian of the papers or records thereof, in the office of the clerk of the county court of the county or counties wherein such work is to be done and where such materials, machinery or equipment are to be delivered, and no such

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contract shall be binding and effective upon either party or parties thereto until such bond has been executed, delivered and recorded as aforesaid.

Nothing in this article shall be construed to give a lien upon such a public building or improvement as is mentioned in this section, or upon the land upon which such public building or improvement is situated.

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