WEST VIRGINIA CODE CHAPTER 51 ARTICLE 6

WV Legislature

§51-6-1. Appointment; term; duties; authority.

Each circuit court, and every other court of record having jurisdiction to try or hear suits in chancery or actions at law, may appoint a general receiver of the court, who shall hold his office at its pleasure, and whose duty it shall be, unless it be otherwise specially ordered, to receive, take charge of, and invest in such stock or other security as the court may order, and in the manner required by such order, all moneys paid into court, or into bank or other place of deposit, under any judgment, order or decree of such court, and standing subject to its orders; and also to pay out or dispose of the same as the court may order or decree; and to this end the general receiver shall have authority to check for, receive and give acquittances for, all such moneys.

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§51-6-2. Powers and duties as to securities.

The certificates of stock or other securities in which, under the orders of the court, such investments may be made, shall be taken in the name of the general receiver, as such, and be kept by him unless otherwise specially ordered; and he shall have the power to sell, transfer or collect the same, when ordered by the court to do so, but not otherwise; and in case of his death, resignation or removal, his successor, or any person specially appointed by the court for that purpose, shall have like power.

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§51-6-3. Dividends and interest.

The general receiver shall collect the dividends and interest on all certificates of stock or other securities in which investments have been or may be made under the orders or decrees of his court, or under the provisions of this article, when and as often as the same may become due and payable thereon, and shall invest or dispose of the same as the court shall order or decree.

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§51-6-4. Interest on money loaned.

The interest on all loans made to individuals under an order of court shall become due and payable on January 1, in each year, until the principal is paid; and unless the interest be paid at the time it becomes due and payable compound interest shall be charged thereon to the borrower from such time until payment thereof is made.

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§51-6-5. Receiver's liability for funds and interest thereon.

He shall be liable for all moneys which may come into his hands as general receiver; and if at any time he shall fail to invest any sum of money, as required by the preceding sections, for the space of sixty days after the same shall be, or ought to have been, received by him or shall fail to pay out any sum of money, when required by the court to pay the same, for the space of sixty days after it shall come into his hands for the purpose of such payment, he shall be charged with interest thereon from the day when such money was, or ought to have been, received by him until such investment or payment is made, unless, upon good cause shown, the court shall order otherwise.

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§51-6-6. Receiver's bond.

Said general receiver shall receive or accept no money or securities until he shall have given bond with good security approved by the court or the judge thereof in vacation, conditioned as provided for official bonds, and in such penalty as the said court or judge may prescribe, but sufficient at least to cover the probable amount of money and securities that may come into his possession. If at any time it appears to the said court or judge that the penalty of the bond or bonds is not sufficient to cover the probable amount of money and securities that may come into the possession of the general receiver, or that for any reason, new or additional bonds should be given by him the said court or the judge thereof in vacation shall require the said general receiver to immediately give new or additional bonds in such penalty as the said court or judge may prescribe. The said general receiver shall not receive or accept any money or securities in excess of the penalty of the bonds given by him as aforesaid and remaining in full force and virtue.

If the said general receiver shall give bond as aforesaid with an indemnity or surety company having an unrevoked license or permit from the Insurance Commissioner authorizing it to engage or continue in business in this state, as surety thereon, the premiums for effecting or continuing such bond shall be treated as a cost or expense of administering the said receivership estate, and paid by the said general receiver out of the funds in his hands as ordered by the said court or judge.

In the event the said general receiver shall give any bond as aforesaid with a surety who is not an indemnity or surety company as aforesaid, he shall give a new bond at least once in every two years after his appointment, and at the time of giving such new bond the surety or sureties thereon shall appear before the said court or judge and be examined under oath in order that the said court or judge may determine the sufficiency of the surety on the said bond.

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§51-6-7. Receiver's compensation.

He shall receive as compensation for his services such percent of the amount received and invested or paid out by him in each case as the court may direct.

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§51-6-8. Accounts and reports.

He shall keep an accurate and itemized account of all moneys received, invested and paid out by him showing the respective amounts to the credit of each case in the court, and designated in the items, the judgments, orders or decrees of the court under which the respective sums have been received, invested or paid out. On the first day of each regular term of the court, he shall report to such court a general statement showing the balance to the credit of each case in the court in which money has been received by him the manner in which it is invested, the amounts received, invested or paid out since his last report, and the whole amount then invested and subject to the future order of the court; and he shall, at any time when required by the court so to do, furnish a statement of the amount subject to the order of the court in any case pending therein.

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§51-6-9. Failure to keep accounts or make statements.

If he shall fail to keep the account, or to make out and return the statements required by the next preceding section of this article, he shall be subject to a fine of not less than $100 nor more than $1,000, to be imposed by the court at its discretion; and the condition of his official bond shall be taken and held to embrace the liability of himself and his sureties for any such fine.

WV Legislature

§51-6-10. Settlement of accounts of general receiver and others who hold money subject to order of court; examination of bonds and securities.

Each circuit court, and every other court which has appointed a general receiver, shall, at its first regular term after January 1, in each year, by an order entered of record, require one of its commissioners in chancery, other than the commissioner who may have been appointed general receiver thereof, to state and settle the accounts of the general receiver of such court, and, unless otherwise provided, of all persons who have money subject to the future order of the court, and which then remains undisbursed. The clerk of the court shall furnish to such commissioner a copy of the order so made, with a list appended thereto exhibiting the names of such receiver and persons. The commissioner shall summon such receiver and persons, or the personal representatives of such of them as are dead, before him and audit, state and settle their accounts, and report the same to the circuit court at its next term after such order has been made. He shall also cause the bond of the receiver of the court, and the bonds or other securities given for any money loaned under the order of the court, to be produced before him and shall ascertain if the obligors in such bonds, or if such other securities, are sufficient, and report thereon to the court at the times before mentioned.

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§51-6-11. Examination of reports; recordation; new bond or additional security; effect.

The court shall examine the reports required by the preceding section, when the same are made to it, and, if satisfied of the correctness thereof, shall order them, by indorsement thereon, to be recorded. If it appear from the report of the commissioner that any bond of a receiver, or any bond or other security given by any person to whom money has been loaned under its order, is insufficient, the court shall order additional security to be given, or another bond to be executed before it, in such penalty as may seem right, and with sufficient sureties. But the execution of such new bond shall not discharge the sureties in any prior bond from their liability for acts of the principal obligor done previously to the execution of such new bond.

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§51-6-12. "Receivers' book"; recordation of reports; inspection.

The clerk of each circuit court shall procure, at the expense of his county, a book to be called the "receivers' book," wherein he shall record such reports, when approved by the court; and he shall make an index thereto, showing the style of the suit or other proceeding in which money has been paid as aforesaid, and the page where any report respecting the same has been recorded. Such book shall be open to the examination of any person interested, or his counsel, without the payment of any fee therefor.

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§51-6-13. Charges of clerks and commissioners.

For recording the reports required by section ten of this article the clerks may charge, in each case mentioned in such report, a fee of 50¢, to be paid out of the fund in court; and such commissioners may charge for the reports made under said section the same fees allowed by law to commissioners in chancery for other reports, to be paid out of the funds in court, and charged to the respective cases therein, in such proportion as the court shall judge right.

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§51-6-14. Application of unclaimed funds in hands of general receiver of circuit court.

Whenever it shall appear to any circuit court that any fund in its charge and in the hands of its general receiver, for a period of at least twenty years, will, in all probability never be claimed by anyone entitled thereto, the court may order such fund applied to any loss of or shrinkage in the investments of such general receiver due to economic condition, and may release such general receiver from any further liability on account of such fund so in his hands.

But before entering any such order, the court shall cause a notice of such intention to be given by the clerk of said court by publication thereof as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty- nine of this code, and the publication area for such publication shall be said county. If no claimant shall appear and establish a right to said fund within one year from the date of the last publication thereof, the court may take said facts to have been fully established, and shall so apply said fund.

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