# WEST VIRGINIA CODE CHAPTER 6 ARTICLE 2

WV Legislature

## §6-2-1. When official bonds to be given.

Any person appointed or elected to any office or position in this state who is required by any statute to enter into or give bond, unless otherwise provided, shall give official bond within sixty days after has been appointed or duly declared elected; but if at the time of his appointment or election shall be absent from the state, circuit, county or district for which is appointed or chosen, shall give such bond within sixty days after notice of his appointment or election. If no term of the court or other tribunal authorized to take and approve such bond shall be held within sixty days after the appointment or declaration of the election of an officer required by law to give bond and qualify before such court or tribunal, or after the person, if absent from the state, county or district, is notified of his appointment or election, shall give bond at the first term of such court or other tribunal next thereafter held: Provided, That the state executive officers shall qualify on or before the first Monday after the second Wednesday of January next after their election: Provided further, That any person appointed or elected to fill a vacancy in any office shall give such bond within ten days after notice of such appointment or election, if the court or other tribunal authorized to take and approve such bond shall sit within said period; otherwise, at the first sitting of such court or other tribunal after notice of such appointment or election. No person shall enter into or discharge any of the duties of his office until shall have given the bond required of by law.

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## §6-2-2. How bonds made payable and proved; sureties.

Every official bond, and every bond required by law to be taken or approved by, or given before, any court, board or officer, shall, unless otherwise provided, be made payable to the State of West Virginia, and shall be signed by one or more sureties deemed sufficient by such court, board or officer, and be proved or acknowledged before, or approved by, such court, board or officer.

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## §6-2-3. Condition; liability.

Unless otherwise specially provided, every bond required by any statute of this state of any person undertaking an office or employment shall be conditioned upon the faithful discharge by the principal of the duties of his office or employment, and upon accounting for and paying over, as required by law, all moneys which may come into his possession by virtue of the office or employment. The liability of the principal and his sureties upon such bond shall extend to all moneys received by the principal by virtue of his office or employment under the laws in effect at the time of the execution of the bond, and to all money which shall come into his possession by virtue of his office or employment under the provisions of any law enacted during his continuance in such office or employment.

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## §6-2-4. Failure to give bond; penalty for acting without giving bond.

If any person elected or appointed to any office, or position, of whom an official bond is required, shall fail to give the bond within the time prescribed by law, the office or position shall be deemed vacant; and any person who shall enter into or discharge any of the duties pertaining to such office or position, before shall have given the bond required by law, shall forfeit not less than $50 nor more than $1,000.

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## §6-2-5. Bonds of officers appointed to fill vacancies.

The bond of any officer appointed to fill a vacancy until the ensuing general election, or for the unexpired term, shall be in the same penalty and contain like conditions as the bond required by law of an officer for the regular or full term, and shall be given before and approved by the same person, court or body authorized to take and approve the bond of a person elected or appointed to such office for the full term.

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## §6-2-6. Bonds of certain state officers.

The following officers shall give bonds to be approved by the Governor, in the penalties hereinafter named: Secretary of state, $25,000; Auditor, $50,000; treasurer, $500,000; state superintendent of free schools, $3,000; and commissioner of agriculture, $5,000.

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## §6-2-7. Approval of form and execution by Attorney General.

Every bond requiring the approval of the Governor, the board of public works, the state commissioner of public institutions, or any other state officer, board or commission, shall be first submitted to the Attorney General, and if be of opinion that the bond is in proper form and regularly executed, shall indorse thereon approval of its sufficiency in form and manner of execution.

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## §6-2-8. Bond of clerk of Supreme Court of Appeals.

The clerk of the Supreme Court of Appeals shall give bond, to be approved by said court, in a penalty of not less than $3,000 nor more than $10,000, as the court shall prescribe.

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## §6-2-9. Where bonds of clerk and state officers filed and recorded.

The bond of the clerk of the Supreme Court of Appeals, and the bond of any state officer or employee that is required to be approved by the Governor, the board of public works, the state commissioner of public institutions, or any other state officer, board or commission, except the bond of the Secretary of State, shall be filed and recorded in the office of the Secretary of State, and the bond of the Secretary of State shall be filed and recorded in the office of the Auditor and a certified copy thereof in the office of the Secretary of State.

WV Legislature

## §6-2-10. Bonds of county officers; required for deputy sheriffs.

Every commissioner of a county commission and every clerk of a circuit court shall give bond with good security, to be approved by the circuit court, or the judge thereof in vacation; and every sheriff, deputy sheriff, surveyor of lands, clerk of a county commission, assessor, county superintendent of schools, notary public and magistrate shall give bond with good security, to be approved, unless otherwise provided by law, by the county commission of the county in which such officer is to act. The penalty of the bond of each commissioner of a county commission shall be not less than $20,000 and not more than $200,000, the amount to be fixed by the circuit court of the county, or the judge thereof in vacation, by order entered of record on the proper order books of both the county and circuit courts; of the clerk of the circuit court, not less than $10,000 nor more than $50,000; of the sheriff, not less than $100,000 nor more than the aggregate amount of all state, county, district, school, municipal and other moneys which will probably come into his hands during any one year of his term of office; of the deputy sheriff, not less than $35,000 nor more than $100,000; of the surveyor of lands, not less than $1,000 nor more than $3,000; of the clerk of the county commission, not less than $10,000 nor more than $50,000; of the assessor, not less than $2,000 nor more than $5,000; of the county superintendent of schools, not less than $10,000 nor more than $50,000; of a notary public, not less than $250 nor more than $1,000. Any public body required to pay the premiums on official bonds may provide a blanket bond policy for two or more such official bonds: Provided, That the bond herein required to be given by a notary public may be given before the clerk of the county commission, in the vacation of said commission, and approved by it at its next regular session.

For the purposes of this section, "deputy sheriff" shall mean a person appointed by a sheriff as his deputy whose primary duty as such deputy is within the scope of active, general law enforcement and as such is authorized to carry deadly weapons, patrol the highways, perform police functions, make arrests or safeguard prisoners.

The bond described in this section is not required for deputy sheriffs if a county purchases professional liability insurance pursuant to the provisions of section three, article fourteen-a, chapter seven of this code.

WV Legislature

## §6-2-10a. Additional bonds of county clerks.

The official bond provided for in section ten of this article, relating to county clerks, shall be deemed to apply only to collection of local fees. The State Auditor, on behalf of the general school fund, and the state conservation commissioner, on behalf of the state conservation commission, shall require from the county clerk of any county such additional bonds as are deemed necessary, and in such amounts as are deemed adequate to protect the general school funds and the state conservation funds in the hands of such clerk. The Auditor and the state conservation commissioner shall require corporate surety bonds and pay the necessary premiums from the said general school funds and the said state conservation fund on said additional bonds, but the amount of such additional bonds shall not exceed the amount of the state funds handled by such clerk during the preceding fiscal year.

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## §6-2-11. Bonds of municipal officers.

Every officer or employee of a municipality who handles public funds or property, and every other officer or employee of a municipality of whom it shall be required, shall, unless otherwise provided by law, give bond, with good security, to be approved by the council or other similar body of such municipality, and in such penalty as such council or other similar body shall prescribe, conditioned upon the faithful discharge of the duties of his office or employment and the faithful accounting for and paying over, as required by law, of any funds or property coming into his possession.

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## §6-2-12. Where certain bonds filed and recorded.

Every official bond given before, or approved by, the county court or the clerk thereof, and every bond executed in any proceeding before said court, including fiduciary bonds, and the bond of the clerk of the circuit court, shall be filed in the office of the clerk of the county court, and be recorded in a book kept by for the purpose, and labeled "Record of Bonds." Every official bond given before, or approved by, the council or other similar body of any municipality, and every official bond given before, or approved by, any Board of Education of any magisterial district or independent district, shall be filed and preserved in the office of the recorder or clerk of such municipality, or in the office of the clerk or secretary of such Board of Education, as the case may be, and be recorded in the records of such council or other similar body of the municipality, or of such Board of Education, respectively, and a certified copy of every such bond shall, by such recorder, clerk or secretary, be forthwith made and filed in the office of the clerk of the county court of the county of such municipality or Board of Education, and said last-mentioned clerk shall record such copy in the book to be kept by as aforesaid. Every bond given before, or approved by, the circuit court, or the judge thereof in vacation, or the clerk of such court, and every bond filed in any civil suit or proceeding in any circuit court, and the bond of the clerk of the county court, shall be filed in the office of the clerk of the circuit court, and be recorded in a book kept by for the purpose, and labeled "Record of Bonds." Any bond required of the clerk of any criminal, intermediate or other inferior court, shall be filed in the office of the clerk of the county court, and be recorded as other bonds in said office, and every bond taken in any proceeding in such criminal, intermediate or inferior court, shall be filed and recorded in the office of the clerk of such criminal, intermediate or inferior court: Provided, however, That where the bond of the clerk of any court is herein required to be filed and recorded in the office of the clerk of some other court, the clerk of the court in whose office such bond is filed shall make and deliver to the clerk filing the same a certified copy of the bond so filed, which certified copy shall be filed and recorded in the office of the clerk giving such bond

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## §6-2-13. Copies to be sent to the State Tax Commissioner; penalty for failure to send.

A copy of the official bond of every sheriff, assessor, clerk of the circuit court, clerk of the county court or other tribunal established in lieu thereof, clerk of the Supreme Court of Appeals, and notary public, shall be sent to the State Tax Commissioner by the officer in whose office the original is filed, within two months after the same is filed in office. If the officer whose duty it is so to send any such copy fail to do so within the time specified, shall forfeit $50.

WV Legislature

## §6-2-14. Requiring new or additional bonds; effect of failure to give.

Any court, board, or officer authorized to approve any official bond may at any time require from any officer by whom any such bond may have been given, a new bond, or an additional bond to that already given, to be approved by such court, board or officer. If the officer so required to give a new bond, or to give such additional bond, shall, after being notified of the requirement, fail to comply therewith within the time prescribed, his office shall be deemed vacant, unless the time for giving such new or additional bond be extended or the requirement withdrawn.

WV Legislature

## §6-2-15. How surety released from liability; requiring substitute bond.

When a surety in an official bond, or personal representative, shall have reason to believe that or the estate of decedent is likely to suffer pecuniary loss, in consequence of such suretyship, may file petition before the court, board or officer by whom such bond was approved, to be released therefrom. The petition shall state the ground upon which belief is founded, and shall be verified by affidavit. Upon the filing of such petition and proof that a notice of the time and place of filing the same has been served upon the principal in such bond at least ten days before the filing thereof, in the manner prescribed by law for the serving of notices, such court, board or officer shall require a new bond to be given. And if any officer, being so required, fail to give a new bond within the time required, office shall be deemed vacant, unless the time for giving such new bond be extended or the requirement withdrawn. And, except where otherwise provided, the surety in any bond, which is required to be approved by any court, board or officer, or the personal representative of any such surety, may be released from liability in like manner.

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## §6-2-16. Effect of new or additional bond.

Where it is provided by any section of this article, or any other section of this code, or shall be provided by any subsequent statute, that any new bond, or bonds in addition to one already given, may be required to be given by any officer, fiduciary, or any other person, if such new bond, when required, be given and accepted, the sureties in the former bond and their estates shall, except in cases where it is otherwise expressly provided, be discharged from all liability for any breach of duty committed by their principal after such new bond is given and accepted. If such additional bond, when required, be given and accepted, the former bond shall continue in force and have the same effect in all respects as if such additional bond had not been required, given, and accepted; except that in such case the sureties in the additional bond shall be jointly liable with the sureties in the former bond for any breach of duty committed by their principal after such additional bond was so given and accepted.

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## §6-2-17. Suits on bonds payable to state brought in name of state.

Upon any bond payable to the State of West Virginia, whether heretofore or hereafter taken, suits may be prosecuted from time to time in the name of the state, for the benefit of the state, or of any county, district, corporation or person injured by a breach of the condition of any such bond, until damages are recovered in the aggregate equal to the penalty thereof.

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## §6-2-18. Proceedings must show for whose benefit prosecuted; costs.

The proceedings in such suit must show for whose benefit it is prosecuted; and the party for whose benefit it is prosecuted shall be liable for costs if the judgment be for the defendant; and the court may, in its discretion, require security for costs from such party, according to the principles and usages of law.

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## §6-2-19. When bonds may be required of other officers and employees.

Any board, commission or officer who has authority by law to appoint to office, or to employ any person in behalf of the state, or to place any person in charge of any property belonging to the state, or to authorize such person to receive into his custody moneys, securities or property belonging to the state, and of whom a bond is not otherwise required by law, may require of such person a bond in such penalty as such board, commission or officer may prescribe, and conditioned and payable as official bonds.

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## §6-2-19a. Oaths and bonds of employees and deputies of Tax Commissioner's office.

The Tax Commissioner shall require every employee and deputy who collects fees or handles funds, or who has custody of equipment, supplies, and other property belonging to the state, to take the oath prescribed by section 5, article IV of the state Constitution; and shall require every employee and deputy to furnish, or shall himself obtain, a bond, insurance policy, indemnity contract, or other contract, protecting and indemnifying the state against any and all loss or damage that may be occasioned by the failure of the employee or deputy faithfully to perform the duties pertaining to his employment, and to account for, pay over and deliver to the proper officer or agent of the Tax Commissioner or state, all moneys and other property which may come into his custody or under his control by virtue of his employment. Such bond, insurance policy, indemnity contract, or other contract, shall be in such form, and in such sum, and with such security, as may be prescribed or approved by the Tax Commissioner, and may cover any one employee or deputy or any number of employees or deputies. The premiums for all such bonds, insurance policies, indemnity contracts, or other contracts, shall be paid by the Tax Commissioner.

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## §6-2-20. Premiums to be allowed on official bonds.

Every officer or employee who is paid a salary, and who is required to give an official bond by virtue of the provisions of this article, and who furnishes a surety company bond, shall be reimbursed by the state, county, municipality or Board of Education, as the case may be, for the actual premium paid to the surety company for such bond, in an amount not exceeding $7.50 per thousand per annum.

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## §6-2-21. Bonds taken for persons in custody.

No officer, by color of office, shall take any obligation, otherwise than is directed by law, of or for any person in custody. If does the same shall be void.

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