WEST VIRGINIA CODE: §7-6-2

§7-6-2. Bond of depositories.

(a) No designation is binding on any county, nor shall any public money be deposited thereunder in excess of the amount insured by an agency of the federal government, until the banking institution designated executes a bond with good and sufficient sureties, to be accepted and approved by the county commission, payable to the State of West Virginia, in a sum as the county commission shall direct, and which may not be less than the amount of the deposit that exceeds the amount insured by an agency of the federal government in the depository at any one time. The bond shall be executed by at least four resident freeholders as sureties owning in the aggregate unencumbered real estate having an assessed valuation thereon equal to the penalty of the bond, or by a fidelity or indemnity company authorized to do business within the state, satisfactory to, and acceptable by the county commission, and having not less than $600,000 capital; and the bond shall be conditioned for the receipt, safekeeping, and payment over of all money which may be deposited in or come under the custody of the banking institution designated a county depository under the provisions hereof, together with the interest thereon at the rate specified by this article; and the bond shall be further conditioned for the faithful performance, by the banking institution so designated, of all the duties imposed by this article upon a depository of public moneys: *Provided*, That the clerk of the county commission shall keep a record of each surety on all personal bonds given as hereinbefore provided and the clerk shall notify the county commission of every recorded conveyance of real estate made by any surety on said personal bond.

(b) An action shall lie on the bond at the instance of the county commission, or the sheriff, for the recovery of any money deposited in the depository, upon failure or default of the depository to fully and faithfully account for and pay over any and all public moneys deposited by the sheriff and of all interests earned and accrued thereon as required by this article. A bond may not be accepted by the county commission until it has been submitted to the prosecuting attorney, and certified by him or her to be in due and legal form, and conformable to the provisions of this article, which certificate shall be endorsed thereon.

(c) The county commission may, in lieu of the bond required pursuant to this section, accept as security for money deposited as aforesaid, interest-bearing securities of the United States, or of a state, county, district or municipal corporation, or of the federal land banks, or endorsed county and district warrants of the county in which the depository is located, or letters of credit of the federal land banks, or federal home loan banks, or any other letters of credit approved by the treasurer; the face value of which securities may not be less than the sum hereinbefore specified as the amount to be named in the bond in lieu of which the securities are accepted; or the county commission may accept the securities as partial security to the extent of their face value for the money so deposited, and require bond for the remainder of the full amount hereinbefore specified, to be named in the bond, and in the

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bond so required, the acceptance of securities as partial security, and the extent thereof, shall be set forth.

(d) A banking institution is not required to provide a bond or security in lieu of bond pursuant to this section if the public deposits accepted are placed in certificates of deposit meeting the following requirements:

(1) The funds are invested through a designated state depository selected by the county;

(2) The selected depository arranges for the deposit of the funds in certificates of deposit in one or more banks or savings and loan associations wherever located in the United States, for the account of the county;

(3) The full amount of principal and accrued interest of each certificate of deposit is insured by the Federal Deposit Insurance Corporation;

(4) The selected depository acts as custodian for the county with respect to such certificates of deposit issued for the county's account; and

(5) On the same date the public moneys are redeposited by the public depository, the public depository may, in its sole discretion, choose whether to receive deposits, in any amount, from other banks, savings banks, or savings and loan associations.

(e) A banking institution is not required to provide a bond or security in lieu of bond pursuant to this section for deposits with any duly designated state depository that is selected and authorized by the county commission to arrange for the redeposit of the funds through a deposit placement program that meets the following conditions:

(1) On or after the date that the county commission funds are received, the selected depository:

(A) Arranges for the redeposit of the funds into deposit accounts in one or more federally insured banks or savings and loan associations that are located in the United States; and

(B) Serves as custodian for the county commission with respect to the funds deposited into such accounts;

(2) The county commission funds deposited in a selected depository in accordance with this subsection and held at the close of business in the selected depository in excess of the amount insured by the Federal Deposit Insurance Corporation shall be secured in accordance with subsection (a) or (c) of this section;

(3) The full amount of the funds of the county commission redeposited by the selected depository into deposit accounts in banks or savings and loan associations pursuant to this subsection, plus accrued interest, if any, shall be insured by the Federal Deposit Insurance Corporation; and

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(4) On the same date that the funds of the county commission are redeposited pursuant to this subsection, the selected depository receives an amount of deposits from customers of other financial institutions through the direct placement program that are equal to the amount of the county commission's funds redeposited by the selected depository.

(f) The hypothecation of the securities 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 depository as aforesaid. All the securities shall be delivered to or deposited for the account of the county commission, and withdrawal or substitution thereof may be permitted from time to time upon approval by the county commission by order of record, but the collateral security shall be released only by order of record of the county commission when satisfied that full and faithful accounting and payment of all the moneys has been made under the provisions hereof. In the event actual possession of the hypothecated securities are delivered to the county commission, it shall make ample provision for the safekeeping thereof 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 county commission may permit the deposit under proper receipt of the securities with one or more banking institutions within or without the State of West Virginia and may contract with any institution for safekeeping and exchange of any hypothecated securities and may prescribe the rules for handling and protecting the same.

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