ENROLLED BILL
(EXTRAORDINARY SESSION, 1933)

Senate Bill No. 16

(By Mr. Harnold)

Passed May 1, 1933

In Effect from Passage
ENROLLED BILL

(S. B. No. 16)

[Passed May 1, 1933; in effect from passage.]

AN ACT to amend and reenact sections two and three, article six, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter eight, acts of the legislature, extraordinary session, one thousand nine hundred thirty-two, relating to county depositories, and providing for the execution of bonds and/or the hypothecation of securities as security for deposits.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article six, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one as amended by chapter eight, acts of the legislature, extraordinary session, one thousand nine hundred thirty-two, be amended and reenacted so as to read as follows:
Section 2. No such designation shall be binding on such county, nor shall any public money be deposited thereunder, until the banking institution designated shall execute bond with good and sufficient sureties, to be accepted and approved by the county court, payable to the state of West Virginia, in such sum as the county court shall direct, and which shall not be less than the maximum sum that shall be deposited in the depository at any one time. Such 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 such business within the state, satisfactory to, and acceptable by the county court, and having not less than six hundred thousand dollars capital; and such 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 such bond shall be further conditioned for the faithful performance, by the banking institution so designated,
22 of all the duties imposed by this article upon a depository of
23 public moneys. *Provided, however,* That the clerk of the
24 county court shall keep a record of each surety on all personal
25 bonds given as hereinafter provided for, and the clerk shall
26 notify the county court of every recorded conveyance of real
27 estate made by any surety on said personal bonds. An action
28 shall lie on such bond at the instance of the county court, or
29 the sheriff, for the recovery of any money deposited in the de-
30 pository, upon failure or default of the depository to fully
31 and faithfully account for and pay over any and all public
32 moneys deposited by the sheriff and of all interests earned and
33 accrued thereon as required by this article. Such bond shall not
34 be accepted by the county court until it shall have been sub-
35 mitted to the prosecuting attorney, and certified by him to
36 be in due and legal form, and conformable to the provisions
37 of this article, which certificate shall be indorsed thereon:
38 *Provided, however,* That the county court may, in lieu of the
39 bond provided for hereinafter, accept as security for money
40 deposited as aforesaid, interest-bearing securities of the United
41 States, or of a state, county, district or municipal corporation,
the depository is located; the face value of which securities
shall not be less than the sum hereinbefore specified as the
amount to be named in the bond in lieu of which such securities
are accepted; or the county court may accept such 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 bond so required, such acceptance of securities as partial
security, and the extent thereof, shall be set forth. The hy-
pothecation of such 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 institu-
tion in its capacity as depository as aforesaid, and such collat-
eral security shall be released only by order of record of the
county court when satisfied that full and faithful accounting
and payment of all the moneys has been made under the pro-
visions hereof. The county court shall make ample provision for
the safekeeping of such hypothecated securities, and the interest
thereon when paid shall be turned over to the banking insti-
tution, so long as it is not in default as aforesaid.

If any banking institution designated as aforesaid fail to
Sec. 3. The banking institutions designated in the manner hereinbefore provided shall, upon the acceptance by the county court of the bond and/or upon the hypothecation of the securities, as provided for hereinbefore, be the depositories of public moneys, and remain such for one year, but the county court, at any time it deems the same necessary, may require additional security from a depository in such sum as the court shall by order designate, and if a depository refuse or neglect, for the period prescribed by the court, to give such additional security, or to comply with the provisions of this article, the court may order the removal of the public moneys from said depository, and if no other county depository is available at the time, then to some reliable banking institution to be the depository thereof temporarily. Such removal, and all other removals, ordered by the county court under the provisions of this article, shall be made by order of record and upon the check of the county treasurer.
18 signed by the county clerk, after notice to such depository.

19 In the event any county depository shall cease to do business
20 or shall suspend business, its rights as a depository shall cease,
21 and the funds on deposit with it shall be transferred to the
22 other depositories of the county, but in the event there is no
23 other approved depository in the county, and pending the
24 designation and approval of another depository, the county
25 treasurer shall deposit public funds coming into his hands, in
26 some reliable banking institution, designated by the county
27 court as a temporary depository, until a depository is desig-
28 nated and approved in the manner herein prescribed. If the
29 money, in case of such removal, be deposited in a banking in-
30 stitution, designated as a temporary depository, such banking
31 institution shall, before the receipt by it of any such money,
32 enter into a bond or hypothecate securities as required by this
33 article; and the county court shall at once proceed to desig-
34 nate a new depository under this article.

Sec. 5. All money deposited in any such depository shall
2 bear interest at the rate of not less than one per cent and not
3 greater than three per cent per annum, to be computed on
4 daily net balances, and such interest shall be placed to the
5 credit of the county treasurer on the first day of every calen-
6 dar month and at any time when the account may be closed.

7 When the interest is credited to the treasurer, the depository
8 shall, in writing, report to the clerk of the county court and
9 the treasurer, each separately, the amount thereof, before noon
10 of the next business day, and all of such interest shall be
11 credited to the general county fund by the clerk of the county
12 court and the treasurer.

13 The county court and the said depositories shall from time
14 to time, but not oftener than once every six months, agree
15 upon a uniform rate of interest to be paid by such deposi-
16 tories; in ascertaining the average daily net balances, due al-
17 lowance shall be made to the depository for any time during
18 which any part of the deposits was not actually available to
19 the depository, and there shall be deducted from the gross
20 daily balances so much thereof as is required by law to be
21 carried as reserve by such depository.

22 All acts and parts of acts inconsistent with this act are here-
23 by repealed.
CORRECTLY ENROLLED

Chairman Senate Committee.

Speaker of the House of Delegates

Clerk of the House of Delegates.

President of the Senate.

Clerk of the Senate.

The within is approved

this 35 day of May, 1933.

Governor.

Filed in the office of the Secretary of State of West Virginia.
MAY 4 1933
Wm S O'Brien,
Secretary of State