

May 2-1433

16

ENROLLED BILL

(EXTRAORDINARY SESSION, 1933)

Senate Bill No. 16

(By Mr. Herold)

Passed May 1, 1933

In Effect from Passage

Originating in the..... Takes effect..... Passage.

James L. Smith
Clerk of the House of Delegates.

CORRECTLY ENROLLED

James L. Smith
Chairman House Committee.

James L. Smith
Chairman Senate Committee.

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:

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Chairman House Committee.

Anna D. Henry
Chairman Senate Committee.

Section 2. No such designation shall be binding on such
2 county, nor shall any public money be deposited thereunder,
3 until the banking institution designated shall execute bond
4 with good and sufficient sureties, to be accepted and approved
5 by the county court, payable to the state of West Virginia, in
6 such sum as the county court shall direct, and which shall
7 not be less than the maximum sum that shall be deposited in
8 the depository at any one time. Such bond shall be executed
9 by at least four resident freeholders as sureties owning in the
10 aggregate unencumbered real estate having an assessed valu-
11 ation thereon equal to the penalty of the bond, or by a fidelity
12 or indemnity company authorized to do such business within
13 the state, satisfactory to, and acceptable by the county court,
14 and having not less than six hundred thousand dollars cap-
15 ital; and such bond shall be conditioned for the receipt, safe-
16 keeping and payment over of all money which may be depos-
17 ited in or come under the custody of the banking institution
18 designated a county depository under the provisions hereof,
19 together with the interest thereon at the rate specified by this
20 article; and such bond shall be further conditioned for the
21 faithful performance, by the banking institution so designated,

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Chairman Senate Committee.

James E. Smith

Chairman House Committee.

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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 hereinbefore 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 hereinbefore, 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,
42 or endorsed county and district warrants of the county in which

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A. Hyatt

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James L. Smith

Chairman House Committee.

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43 the depository is located; the face value of which securities
44 shall not be less than the sum hereinbefore specified as the
45 amount to be named in the bond in lieu of which such securities
46 are accepted; or the county court may accept such securities as
47 partial security to the extent of their face value for the money
48 so deposited, and require bond for the remainder of the full
49 amount hereinbefore specified, to be named in the bond, and in
50 the bond so required, such acceptance of securities as partial
51 security, and the extent thereof, shall be set forth. The hy-
52 pothecation of such securities shall be by proper legal transfer
53 as collateral security to protect and indemnify by trust any and
54 all loss in case of any default on the part of the banking institu-
55 tion in its capacity as depository as aforesaid, and such collat-
56 eral security shall be released only by order of record of the
57 county court when satisfied that full and faithful accounting
58 and payment of all the moneys has been made under the pro-
59 visions hereof. The county court shall make ample provision for
60 the safekeeping of such hypothecated securities, and the interest
61 thereon when paid shall be turned over to the banking insti-
62 tution, so long as it is not in default as aforesaid.

63 If any banking institution designated as aforesaid fail to

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64 execute bond or to hypothecate securities as required hereby,
65 to the satisfaction and acceptance of the county court, before
66 August first, following such designation, it shall not serve
67 during that fiscal year.

Sec. 3. The banking institutions designated in the manner
2 hereinbefore provided shall, upon the acceptance by the
3 county court of the bond and/or upon the hypothecation of
4 the securities, as provided for hereinbefore, be the depositories
5 of public moneys, and remain such for one year, but the
6 county court, at any time it deems the same necessary, may
7 require additional security from a depository in such sum as
8 the court shall by order designate; and if a depository refuse
9 or neglect, for the period prescribed by the court, to give such
10 additional security, or to comply with the provisions of this
11 article, the court may order the removal of the public moneys
12 therefrom to some other depository and if no other county
13 depository is available at the time, then to some reliable bank-
14 ing institution to be the depository thereof temporarily. Such
15 removal, and all other removals, ordered by the county court
16 under the provisions of this article, shall be made by order of
17 record and upon the check of the county treasurer, counter-

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Chairman Senate Committee.

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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

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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.

Anna D. Hine
 Chairman Senate Committee.

B. M. Hiner
 Speaker of the House of Delegates

Geo. L. Hall
 Clerk of the House of Delegates.

A. B. Matthews
 President of the Senate.

Charles D. Smith
 Clerk of the Senate.

James L. Smith
 Chairman House Committee.

The within is *approved*

this *30* day of *May*, 1933.

H. B. Kemp
 Governor.

Filed in the office of the Secretary of State
 of West Virginia. **MAY 4 1933**

Wm S O'BRIEN,
 Secretary of State

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