

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



# ENROLLED

HOUSE BILL No. 4352

(By ~~MB~~ Del. M. Burke + Reggs)



Passed March 9 1990

In Effect ninety days from Passage

**ENROLLED**  
**H. B. 4352**

(By DELEGATES M. BURKE AND RIGGS)

[Passed March 9, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact section eight, article two-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to applicant for permit to furnish surety bond for benefit consignor.

*Be it enacted by the Legislature of West Virginia:*

That section eight, article two-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 2A. PUBLIC MARKETS.**

**§19-2A-8. Applicant for permit to furnish surety bond for benefit of consignors; form of surety bond.**

1 Before the granting of any such permit, the applicant  
2 shall execute and deliver to the commissioner a surety  
3 bond conditioned as the commissioner may require and  
4 acceptable to him, payable to the state of West Virginia,  
5 for the benefit of the consignors at said market of  
6 livestock, poultry, and other agricultural and horticultural  
7 products, who have been wronged or damaged by  
8 any fraud or fraudulent practices of the market and so  
9 adjudged by a court of competent jurisdiction and who  
10 shall have the right of action for damage for compensation  
11 against such bond. A holder of a permit, who shall  
12 have been in operation not less than twelve months, shall  
13 maintain and deliver such bond to said commissioner as

14 aforesaid in an amount not to exceed one hundred  
15 twenty percent of the average of its sales during the  
16 preceding calendar year. A holder of a permit, who shall  
17 have been in operation less than twelve months, shall  
18 maintain and deliver such bond to said commissioner as  
19 aforesaid in an amount established by the commissioner,  
20 but in no case shall the bond be less than the average  
21 bond maintained by all other public markets in the state  
22 that have been in operation more than twelve months.

23 The form of the bond shall be approved by the  
24 commissioner and may include, at the option of the  
25 applicant, surety bonding, collateral bonding (including  
26 costs and securities), establishment of an escrow account  
27 or a combination of these methods. If collateral bonding  
28 is used, the operator may elect to deposit cash or  
29 collateral securities or certificates as follows: Bonds of  
30 the United States or its possessions, of the federal land  
31 bank or of the homeowners' loan corporation; full faith  
32 and credit general obligation bonds of the state of West  
33 Virginia, or other states, and of any county, district or  
34 municipality of the state of West Virginia or other  
35 states; or certificates of deposit in a bank in this state,  
36 which certificates shall be in favor of the department.  
37 The cash deposit or market value of such securities or  
38 certificates shall be equal to or greater than the sum of  
39 the bond. It shall be the duty of the applicant to ensure  
40 the market value of such bonds are sufficient. The  
41 commissioner shall, upon receipt of any such deposit of  
42 cash, securities or certificates, promptly place the same  
43 with the treasurer of the state of West Virginia whose  
44 duty it shall be to receive and hold the same in the name  
45 of the state in trust for the purpose for which the deposit  
46 is made when the permit is issued. The applicant  
47 making the deposit shall be entitled from time to time  
48 to receive from the state treasurer, upon the written  
49 approval of the commissioner, the whole or any portion  
50 of any cash, securities or certificates so deposited, upon  
51 depositing with him in lieu thereof, cash or other  
52 securities or certificates of the classes herein specified  
53 having value equal to or greater than the sum of the  
54 bond.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Frederick L. Porter*  
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Chairman Senate Committee

*Bernard V. Kelly*  
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Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Harrell E. Blaine*  
-----  
Clerk of the Senate

*Donald Z. Hoyle*  
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Clerk of the House of Delegates

*Kath Sundette*  
-----  
President of the Senate

*Robert Cole*  
-----  
Speaker of the House of Delegates

The within is approved this the *16<sup>th</sup>*  
day of *March*, 1990.

*Gaston Caperton*  
-----  
Governor

PRESENTED TO THE  
GOVERNOR  
Date 3/23/90  
Time 3:41 pm

RECEIVED

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OFFICE OF THE  
SECRETARY OF THE ARMY