WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1999

ENROLLED

SENATE BILL NO. 211

(By Senator HERMICK, ET AL)

PASSED MARCH 11, 1999
In Effect NINETY DAYS FROM Passage
ENROLLED

Senate Bill No. 211

(BY SENATORS HELMICK, ROSS, MINARD, FANNING, SHARPE,
SCHOONOVER AND SPROUSE)

[Passed March 11, 1999; in effect ninety days from passage.]
four, article one, chapter twelve of said code be amended and reenacted, all to read as follows:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 6. STATE BUILDING COMMISSION.

§5-6-5. Deposit and disbursement of funds of commission; security for deposits; audits.

Except as provided in sections five-a and eleven-a of this article, all moneys of the commission from whatever source derived shall be paid to the treasurer of the state of West Virginia who shall not commingle the moneys, but shall deposit them to a special revenue fund to be known as the “state building commission fund”. The moneys in the account shall be impressed with and subject to the lien or liens on the moneys in favor of the bondholders provided in the proceedings for issuance of bonds pursuant to this article. The moneys in the account shall be paid out on check of the treasurer on requisition of the chairman of the commission, or of such other person as the commission may authorize to make the requisition. All deposits of the moneys shall, if required by the treasurer or the commission, be secured by obligations of the United States, of the state of West Virginia, or of the commission, of a market value equal at all times to the amount of the deposit, or letters of credit of the federal land banks, or federal home loan banks, or other letters of credit approved by the treasurer, and all banking institutions are authorized to give such security for the deposits. The legislative auditor and his or her legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 6. COUNTY DEPOSITORY.
§7-6-2. Bond of depositories.

1 No such designation shall be binding on any county, nor
2 shall any public money be deposited thereunder, until the
3 banking institution designated shall execute bond with
4 good and sufficient sureties, to be accepted and approved
5 by the county commission, payable to the state of West
6 Virginia, in a sum as the county commission shall direct,
7 and which shall not be less than the maximum sum that
8 shall be deposited in the depository at any one time. The
9 bond shall be executed by at least four resident freeholders
10 as sureties owning in the aggregate unencumbered real
11 estate having an assessed valuation thereon equal to the
12 penalty of the bond, or by a fidelity or indemnity company
13 authorized to do business within the state, satisfactory to,
14 and acceptable by the county commission, and having not
15 less than six hundred thousand dollars capital; and the
16 bond shall be conditioned for the receipt, safekeeping and
17 payment over of all money which may be deposited in or
18 come under the custody of the banking institution desig-
19 nated a county depository under the provisions hereof,
20 together with the interest thereon at the rate specified by
21 this article; and the bond shall be further conditioned for
22 the faithful performance, by the banking institution so
23 designated, of all the duties imposed by this article upon
24 a depository of public moneys: Provided, That the clerk of
25 the county commission shall keep a record of each surety
26 on all personal bonds given as hereinbefore provided for
27 and the clerk shall notify the county commission of every
28 recorded conveyance of real estate made by any surety on
29 said personal bond.

30 An action shall lie on the bond at the instance of the
31 county commission, or the sheriff, for the recovery of any
32 money deposited in the depository, upon failure or default
33 of the depository to fully and faithfully account for and
34 pay over any and all public moneys deposited by the
35 sheriff and of all interests earned and accrued thereon as
36 required by this article. A bond shall not be accepted by
37 the county commission until it shall have been submitted
38 to the prosecuting attorney, and certified by him or her to
39 be in due and legal form, and conformable to the provi-
40 sions of this article, which certificate shall be indorsed
thereon: Provided, That the county commission may, in lieu of the bond provided for hereinbefore, 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 indorsed 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 such other letters of credit approved by the treasurer; 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 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 bond so required, the acceptance of securities as partial security, and the extent thereof, shall be set forth. 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 or 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.
CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 1. STATE DEPOSITORY.

§12-1-4. Bonds to be given by depositories.

Before allowing any money to be deposited with any eligible depository in excess of the amount insured by an agency of the federal government, the state treasurer shall require the depository to give a collaterally secured bond, in the amount of not less than ten thousand dollars, payable to the state of West Virginia, conditioned upon the prompt payment, whenever lawfully required, of any state money, or part thereof, that may be deposited with that depository, or of any accrued interest on deposits. The bond shall be a continuous bond but may be increased or decreased in amount or replaced by a new bond with the approval of the state treasurer. The collateral security for the bond shall consist of bonds of the United States, or bonds or letters of credit of the federal land banks, of the federal home loan banks, or bonds of the state of West Virginia or of any county, district or municipality of this state, or other bonds, letters of credit, or securities approved by the treasurer. All bonds so secured are here designated as collaterally secured bonds. Withdrawal or substitution of any collateral pledged as security for the performance of the conditions of the bond may be permitted with the approval in writing of the treasurer. All depository bonds shall be recorded by the treasurer in a book kept in his or her office for the purpose, and a copy of the record, certified by the treasurer, shall be prima facie evidence of the execution and contents of the bond in any suit or legal proceeding. All collateral securities shall be delivered to the treasurer, he or she shall furnish a receipt therefor to the owner thereof. The treasurer and his or her bondsmen shall be liable to any person for any loss by reason of the embezzlement or misapplication of the securities by the treasurer or any of his or her employees, and for the loss thereof due to his or her negligence or the negligence of his or her employees; and the securities shall be delivered to the owner thereof when liability under the bond which they are pledged to
secure has terminated. The treasurer may permit the deposit under proper receipt of the securities with one or more banking institutions within or outside the state of West Virginia and may contract with any institution for safekeeping and exchange of any collateral securities and may prescribe the rules for handling and protecting the collateral securities.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.
In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within.................................. this the ...... Day of ......................................, 1999

Governor