WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4692

(By Delegates White and Kominar)

Passed March 7, 2008

In Effect Ninety Days from Passage
AN ACT to amend and reenact § 12-1-4 and § 12-1-5 of the Code of West Virginia, 1931, as amended, all relating to giving depositories of state moneys authority to place deposits of those moneys in certificates of deposit which meet certain requirements in lieu of providing a bond or security; and permitting depositories of state moneys to insure such deposits in excess of the amount insured by an agency of the federal government with a deposit guaranty bond issued by a bankers surety company.

Be it enacted by the Legislature of West Virginia:

That §12-1-4 and §12-1-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. STATE DEPOSITORIES.

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

(a) Before allowing any money to be deposited with any eligible depository in excess of the amount insured by an agency of the federal government or insured by a deposit guaranty bond issued by a valid bankers surety company
acceptable to the treasurer, 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 or deposited for the account of the
treasurer of the State of West Virginia and in the event said
securities are 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.
(b) A banking institution is not required to provide a bond or security in lieu of bond if the 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 treasurer; (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 state; (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 state with respect to such certificates of deposit issued for the state's account; and (5) at the same time that the state's funds are deposited and the certificates of deposit are issued, the selected depository receives an amount of deposits from customers of other financial institutions wherever located in the United States equal to or greater than the amount of the funds invested by the state through the selected depository.

§12-1-5. Limitation on amount of deposits.

The amount of state funds on deposit in any depository in excess of either the amount insured by an agency of the federal government or the amount insured by a deposit guaranty bond issued by a valid bankers surety company acceptable to the treasurer shall not exceed ninety percent of the value of collateral pledged on the collaterally secured bond given by the depository. The value of the collateral shall be determined by the treasurer.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 28th day of March, 2008.

Governor