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WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

WEST VIRGINIA
SECRETARY OF STATE

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ENROLLED

Senate Bill No. 385

(BY SENATORS MINARD, JENKINS,
McCABE, OLIVERIO AND PLYMALE)

[Passed March 11, 2010; in effect ninety days from passage.]

SB 385

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(BY SENATORS MINARD, JENKINS, MCCABE, OLIVERIO AND PLYMALE)

[Passed March 11, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §7-6-2 of the Code of West Virginia, 1931, as amended, relating to bond requirements for county depositories; requiring that a county depository execute a bond only for the amount of the public money deposited that exceeds the amount of the deposit insured by an agency of the federal government.

Be it enacted by the Legislature of West Virginia:

That §7-6-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6. COUNTY DEPOSITORIES.

§7-6-2. BOND OF DEPOSITORIES.

1 No designation is binding on any county, nor shall any
2 public money be deposited thereunder in excess of the
3 amount insured by an agency of the federal government,
4 until the banking institution designated executes a bond
5 with good and sufficient sureties, to be accepted and
6 approved by the county commission, payable to the State

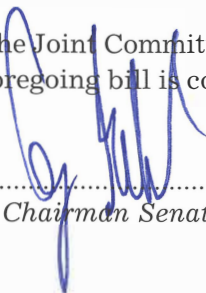
7 of West Virginia, in a sum as the county commission shall
8 direct, and which may not be less than the amount of the
9 deposit that exceeds the amount insured by an agency of
10 the federal government in the depository at any one time.
11 The bond shall be executed by at least four resident
12 freeholders as sureties owning in the aggregate unencum-
13 bered real estate having an assessed valuation thereon
14 equal to the penalty of the bond, or by a fidelity or indem-
15 nity company authorized to do business within the state,
16 satisfactory to, and acceptable by the county commission,
17 and having not less than \$600,000 capital; and the bond
18 shall be conditioned for the receipt, safekeeping and
19 payment over of all money which may be deposited in or
20 come under the custody of the banking institution desig-
21 nated a county depository under the provisions hereof,
22 together with the interest thereon at the rate specified by
23 this article; and the bond shall be further conditioned for
24 the faithful performance, by the banking institution so
25 designated, of all the duties imposed by this article upon
26 a depository of public moneys: *Provided*, That the clerk of
27 the county commission shall keep a record of each surety
28 on all personal bonds given as hereinbefore provided and
29 the clerk shall notify the county commission of every
30 recorded conveyance of real estate made by any surety on
31 said personal bond.

32 An action shall lie on the bond at the instance of the
33 county commission, or the sheriff, for the recovery of any
34 money deposited in the depository, upon failure or default
35 of the depository to fully and faithfully account for and
36 pay over any and all public moneys deposited by the
37 sheriff and of all interests earned and accrued thereon as
38 required by this article. A bond may not be accepted by
39 the county commission until it has been submitted to the
40 prosecuting attorney, and certified by him or her to be in
41 due and legal form, and conformable to the provisions of
42 this article, which certificate shall be endorsed thereon:

43 *Provided*, That the county commission may, in lieu of the
44 bond provided hereinbefore, accept as security for money
45 deposited as aforesaid, interest-bearing securities of the
46 United States, or of a state, county, district or municipal
47 corporation, or of the federal land banks, or endorsed
48 county and district warrants of the county in which the
49 depository is located, or letters of credit of the federal land
50 banks, or federal home loan banks, or any other letters of
51 credit approved by the treasurer; the face value of which
52 securities may not be less than the sum hereinbefore
53 specified as the amount to be named in the bond in lieu of
54 which the securities are accepted; or the county commis-
55 sion may accept the securities as partial security to the
56 extent of their face value for the money so deposited, and
57 require bond for the remainder of the full amount herein-
58 before specified, to be named in the bond, and in the bond
59 so required, the acceptance of securities as partial secu-
60 rity, and the extent thereof, shall be set forth: *Provided*,
61 *however*, That a banking institution is not required to
62 provide a bond or security in lieu of bond if the deposits
63 accepted are placed in certificates of deposit meeting the
64 following requirements: (1) The funds are invested through
65 a designated state depository selected by the county; (2)
66 the selected depository arranges for the deposit of the
67 funds in certificates of deposit in one or more banks or
68 savings and loan associations wherever located in the
69 United States, for the account of the county; (3) the full
70 amount of principal and accrued interest of each certifi-
71 cate of deposit is insured by the Federal Deposit Insurance
72 Corporation; (4) the selected depository acts as custodian
73 for the county with respect to such certificates of deposit
74 issued for the county's account; and (5) at the same time
75 that the county's funds are deposited and the certificates
76 of deposit are issued, the selected depository receives an
77 amount of deposits from customers of other financial
78 institutions wherever located in the United States equal to
79 or greater than the amount of the funds invested by the

80 county through the selected depository. The hypotheca-
81 tion of the securities shall be by proper legal transfer as
82 collateral security to protect and indemnify by trust any
83 and all loss in case of any default on the part of the
84 banking institution in its capacity as depository as afore-
85 said. All the securities shall be delivered to or deposited
86 for the account of the county commission, and withdrawal
87 or substitution thereof may be permitted from time to time
88 upon approval by the county commission by order of
89 record, but the collateral security shall be released only by
90 order of record of the county commission when satisfied
91 that full and faithful accounting and payment of all the
92 moneys has been made under the provisions hereof. In the
93 event actual possession of the hypothecated securities are
94 delivered to the county commission, it shall make ample
95 provision for the safekeeping thereof and the interest
96 thereon when paid shall be turned over to the banking
97 institution, so long as it is not in default as aforesaid. The
98 county commission may permit the deposit under proper
99 receipt of the securities with one or more banking institu-
100 tions within or without the State of West Virginia and may
101 contract with any institution for safekeeping and ex-
102 change of any hypothecated securities, and may prescribe
103 the rules for handling and protecting the same.

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


.....
Chairman Senate Committee


.....
Chairman House Committee

Originated 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 *is approved* this the *22nd*
Day of *March*, 2010.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 19 2010

Time 4:00 pm