

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 516**

4 (By Senators Yost, Miller and Carmichael)

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6 [Originating in the Committee on Labor;

7 reported March 20, 2013.]  
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10 A BILL to amend and reenact §47-11B-9 of the Code of West Virginia,  
11 1931, as amended, relating to the bond required for  
12 closing-out sales, fire sales and defunct business sales;  
13 conditioning issuance of a license upon the posting of a bond;  
14 clarifying that the face amount of the bond is determined from  
15 the inventory of goods to be sold; and changing the authority  
16 for the approval of the form of bond from the local  
17 prosecuting attorney to the Commissioner of Labor.

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

19 That §47-11B-9 of the Code of West Virginia, 1931, as amended,  
20 be amended and reenacted to read as follows:

21 **ARTICLE 11B. CLOSING-OUT SALES, FIRE SALES AND DEFUNCT BUSINESS**  
22 **SALES.**

23 **§47-11B-9. Bond required.**

24 ~~No~~ A license ~~shall~~ may not be issued unless the applicant  
25 files with the commissioner a bond with corporate surety payable to

1 the State of West Virginia conditioned upon the faithful observance  
2 of all the provisions of this article, the payment to any  
3 municipality or the state of all taxes due and owing or which may  
4 become due and the indemnifying of any purchaser at ~~such~~ the sale  
5 who suffers any loss by reason of misrepresentation made in  
6 connection with ~~such~~ the sale: *Provided*, That the aggregate  
7 liability of the surety for all breaches of the conditions of the  
8 bond ~~shall in no event~~ may not exceed the amount of ~~said~~ the bond.  
9 The amount of ~~said~~ the bond shall be ~~determined~~ based on the  
10 inventory required to be filed with the commissioner pursuant  
11 section four of this article, and calculated as follows: Five  
12 percent of the first \$100,000 of the retail value of all the goods,  
13 wares and merchandise to be offered at ~~such~~ the sale, two percent  
14 of the next \$400,000 and one percent of the balance. ~~Said~~ The bond  
15 shall be approved as to form and sufficiency by the ~~prosecuting~~  
16 ~~attorney or his assistant of the county in which such sale is to be~~  
17 ~~conducted~~ commissioner.

NOTE: The purpose of this bill is to modify the bonding requirement for closing-out sales by clarifying the calculation of the face amount and changing the approval authority to the commissioner of labor.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.