

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 415

BY SENATOR ASHLEY

[Introduced January 28, 2016;

Referred to the Committee on Banking and Insurance.]

1 A BILL to amend and reenact §8-13-22a of the Code of West Virginia, 1931, as amended, relating
2 to lengthening the maximum term of negotiable certificates of deposit that municipal funds
3 are permitted to hold.

Be it enacted by the Legislature of West Virginia:

1 That §8-13-22a of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 13. TAXATION AND FINANCE.

§8-13-22a. Investment of municipal funds.

1 All municipal funds, the investment of which is not governed by other provisions of this
2 code and not required for the payment of current obligations and not otherwise prohibited, may
3 be invested and reinvested in:

4 (1) Any direct obligation of, or obligation guaranteed as to the payment of both principal
5 and interest by, the United States of America;

6 (2) Any evidence of indebtedness issued by any United States government agency
7 guaranteed as to the payment of both principal and interest, directly or indirectly, by the United
8 States of America including, but not limited to, the following: Government National Mortgage
9 Association, federal land banks, federal home loan banks, federal intermediate credit banks,
10 banks for cooperatives, Tennessee Valley Authority, United States postal service, farmers home
11 administration, export-import bank, federal financing bank, federal home loan mortgage
12 corporation, student loan marketing association and federal farm credit banks;

13 (3) Any evidence of indebtedness issued by the Federal National Mortgage Association to
14 the extent such indebtedness is guaranteed by the government National Mortgage Association;

15 (4) Any evidence of indebtedness that is secured by a first lien deed of trust or mortgage
16 upon real property situate within this state, if the payment thereof is substantially insured or
17 guaranteed by the United States of America or any agency thereof;

18 (5) Direct and general obligations of this state;

19 (6) Any undivided interest in a trust, the corpus of which is restricted to mortgages on real
20 property and, unless all of such property is situate within the state and insured, the trust at the
21 time of the acquisition of the undivided interest, is rated in one of the three highest rating grades
22 by an agency which is nationally known in the field of rating pooled mortgage trusts;

23 (7) Any bond, note, debenture, commercial paper or other evidence of indebtedness of
24 any private corporation or association: *Provided*, That any such security is, at the time of its
25 acquisition, rated in one of the three highest rating grades by an agency which is nationally known
26 in the field of rating corporate securities: *Provided, however*, That if any commercial paper or any
27 such security will mature within one year from the date of its issuance, it shall, at the time of its
28 acquisition, be rated in one of the two highest rating grades by any such nationally known agency
29 and commercial paper or other evidence of indebtedness of any private corporation or association
30 shall be purchased only upon the written recommendation from an investment advisor that has
31 over \$300 million in other funds under its management;

32 (8) Negotiable certificates of deposit issued by any bank, trust company, national banking
33 association or savings institution which mature in ~~less than one year~~ no more than five years and
34 are fully collateralized;

35 (9) Interest earning deposits including certificates of deposit, with any duly designated
36 state depository, which deposits are fully secured by a collaterally secured bond as provided in
37 section four, article one, chapter twelve of this code: *Provided*, That a banking institution is not
38 required to provide this collaterally secured bond, or other security in lieu of bond, if the deposits
39 accepted are placed in certificates of deposit meeting the following requirements: (A) The funds
40 are invested through a designated state depository selected by the municipality; (B) the selected
41 depository arranges for the deposit of the funds in certificates of deposit in one or more banks or
42 savings and loan associations wherever located in the United States, for the account of the
43 municipality; (C) the full amount of principal and accrued interest of each certificate of deposit is
44 insured by the Federal Deposit Insurance Corporation; (D) the selected depository acts as

45 custodian for the municipality with respect to such certificates of deposit issued for the
46 municipality's account; and (E) at the same time that the municipality's funds are deposited and
47 the certificates of deposit are issued, the selected depository receives an amount of deposits from
48 customers of other financial institutions wherever located in the United States equal to or greater
49 than the amount of the funds invested by the municipality through the selected depository;

50 (10) Mutual funds registered with the Securities and Exchange Commission which have
51 assets in excess of \$300 million; and

52 (11) Deposits with any duly designated state depository that is selected and authorized by
53 the municipality to arrange for the redeposit of the funds through a deposit placement program
54 that meets the following conditions:

55 (a) On or after the date that the municipal funds are received the selected depository: (i)
56 Arranges for the redeposit of the funds into deposit accounts in one or more federally insured
57 banks or savings and loan associations that are located in the United States; and (ii) serves as
58 custodian for the municipality with respect to the funds deposited into such accounts.

59 (b) Municipal funds deposited in a selected depository in accordance with this section and
60 held at the close of business in the selected depository in excess of the amount insured by the
61 Federal Deposit Insurance Corporation shall be secured in accordance with section four, article
62 one, chapter twelve of this code.

63 (c) The full amount of the funds of the municipality redeposited by the selected depository
64 into deposit accounts in banks or savings and loan associations pursuant to this subsection (plus
65 accrued interest, if any) shall be insured by the Federal Deposit Insurance Corporation.

66 (d) On the same date that the funds of the municipality are redeposited pursuant to this
67 subsection, the selected depository receives an amount of deposits from customers of other
68 financial institutions through the direct placement program that are equal to the amount of the
69 municipality's funds redeposited by the selected depository.

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NOTE: The purpose of this bill is to increase the maximum permissible term of a negotiable certificate of deposit used for the investment of municipal funds from less than one year to no more than five years in order to permit municipalities using such investment vehicles to realize a greater rate of return. The original code section was enacted in 1973, with subsequent amendments, during a period of time in which shorter terms for certificates of deposit would be more likely to result in higher rates of return upon reinvestment; today, prevailing interest rate patterns typically result in a greater rate of return for investments with longer terms versus year-to-year rollovers.

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