

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3440

By Delegate Riley

Introduced March 17, 2025; referred to the Committee
on Finance

1 A BILL to amend and reenact §12-1-4 and §12-1-5 of the Code of West Virginia, 1931, as
 2 amended; and to repeal §12-1A-1, §12-1A-2, §12-1A-3, §12-1A-4, §12-1A-5, §12-1A-6,
 3 §12-1A-7, §12-1A-8 and §12-1A-9 of said code, all relating generally to removing and
 4 repealing obsolete provisions under the purview of the State Treasurer’s Office; removing
 5 language regarding the acceptance of surety bonds and certificates of deposit as
 6 collateral; and repealing obsolete and expired code provisions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. STATE DEPOSITORIES.

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

1 (a) Before allowing any money to be deposited with any eligible depository in excess of the
 2 amount insured by an agency of the federal government ~~or insured by a deposit guaranty bond~~
 3 ~~issued by a valid bankers surety company acceptable to the treasurer~~, the state Treasurer shall
 4 require the depository to give a collaterally secured bond, ~~in the amount of not less than \$10,000,~~
 5 ~~payable to the State of West Virginia, conditioned upon the prompt payment, whenever lawfully~~
 6 ~~required, of any state money, or part thereof, that may be deposited with that depository, or of any~~
 7 ~~accrued interest on deposits. The bond shall be a continuous bond but may be increased or~~
 8 ~~decreased in amount or replaced by a new bond with the approval of the state Treasurer.~~ The
 9 collateral security for the bond shall consist of bonds of the United States, or bonds or letters of
 10 credit of the federal land banks, of the federal home loan banks, or bonds of the State of West
 11 Virginia or of any county, district or municipality of this state, or other bonds, letters of credit, or
 12 securities approved by the treasurer. All bonds so secured are here designated as collaterally
 13 secured bonds. Withdrawal or substitution of any collateral pledged as security for the
 14 performance of the conditions of the bond may be permitted with the approval in writing of the
 15 treasurer. All depository bonds shall be recorded by the treasurer in a book kept in his or her office
 16 for the purpose, and a copy of the record, certified by the treasurer, shall be prima facie evidence
 17 of the execution and contents of the bond in any suit or legal proceeding. All collateral securities

18 shall be delivered to or deposited for the account of the treasurer of the State of West Virginia and
19 in the event said securities are delivered to the treasurer, he or she shall furnish a receipt therefor
20 to the owner thereof. The treasurer ~~and his or her bondsmen~~ shall be liable to any person for any
21 loss by reason of the embezzlement or misapplication of the securities by the treasurer or any of
22 his or her employees, and for the loss thereof due to his or her negligence or the negligence of his
23 or her employees; and the securities shall be delivered to the owner thereof when liability under
24 the bond which they are pledged to secure has terminated. The treasurer may permit the deposit
25 under proper receipt of the securities with one or more banking institutions within or outside the
26 State of West Virginia and may contract with any institution for safekeeping and exchange of any
27 collateral securities and may prescribe the rules for handling and protecting the collateral
28 securities.

29 (b) A banking institution is not required to provide a bond or security in lieu of bond if the
30 deposits accepted are placed in certificates of deposit meeting the following requirements:

31 (1) The funds are invested through a designated state depository selected by the
32 Treasurer;

33 (2) The selected depository arranges for the deposit of the funds in certificates of deposit in
34 one or more banks or savings and loan associations wherever located in the United States, for the
35 account of the state;

36 (3) The full amount of principal and accrued interest of each certificate of deposit is insured
37 by the Federal Deposit Insurance Corporation;

38 (4) The selected depository acts as custodian for the state with respect to such certificates
39 of deposit issued for the state's account; and

40 (5) On the same date the public moneys are redeposited by the public depository, the
41 public depository may, in its sole discretion, choose whether to receive deposits, in any amount,
42 from other banks, savings banks, or savings and loan associations.

43 (c) A banking institution is not required to provide a bond or security in lieu of bond

44 pursuant to this section if the deposits accepted are placed in a designated state depository that is
45 selected and authorized by the state to arrange for the redeposit of the funds through a deposit
46 placement program that meets the following conditions:

47 (1) On or after the date that the funds are received the selected depository: (i) Arranges for
48 the redeposit of the funds into deposit accounts in one or more federally insured banks or savings
49 and loan associations that are located in the United States; and (ii) serves as custodian for the
50 state with respect to the funds redeposited into such accounts.

51 (2) State funds deposited in a selected depository in accordance with this section and held
52 at the close of business in the selected depository in excess of the amount insured by the Federal
53 Deposit Insurance Corporation shall be secured in accordance with §7-6-2 of this code.

54 (3) The full amount of the funds of the state redeposited by the selected depository into
55 deposit accounts in banks or savings and loan associations pursuant to this section (plus accrued
56 interest, if any) shall be insured by the Federal Deposit Insurance Corporation.

57 (4) On the same date that the funds of the state are redeposited pursuant to this section,
58 the selected depository receives an amount of deposits from customers of other financial
59 institutions through the deposit placement program that are equal to the amount of the state funds
60 redeposited by the selected depository.

§12-1-5. Limitation on amount on deposit; dedicated method; rules.

1 (a) The amount of state funds on deposit in any depository in excess of the amount insured
2 by an agency of the federal government shall be secured by ~~a deposit guaranty bond issued by a~~
3 ~~valid bankers' surety company or by other securities~~ acceptable to the State Treasurer, pursuant
4 to the dedicated method, in an amount of at least 102 percent of the amount on deposit. The value
5 of the collateral shall be determined by the State Treasurer.

6 (b) The State Treasurer may propose rules for legislative approval in accordance with the
7 provisions of §29A-3-1 *et seq.* of this code and may promulgate emergency rules pursuant to the
8 provisions of §29A-3-15 of this code as are necessary to effectuate the provisions of this section.

9 (c) For the purposes of this section, the term "dedicated method" means the securing of
 10 public deposits without accepting the contingent liability for the losses of public deposits of other
 11 designated state depositories as provided in this section.

ARTICLE 1A. WEST VIRGINIA SMALL BUSINESS LINKED DEPOSIT PROGRAM.

§12-1A-1. Definitions.

1 [Repealed.]

§12-1A-2. Legislative findings.

1 [Repealed.]

§12-1A-3. Limitations on investment in linked deposits.

1 [Repealed.]

§12-1A-4. Applications for loan priority; loan package; counseling.

1 [Repealed.]

§12-1A-5. Acceptance or rejection of loan package; deposit agreement for linked deposits.

1 [Repealed.]

§12-1A-6. Certification and monitoring of compliance; accountability and reporting.

1 [Repealed.]

§12-1A-7. Liability of state.

1 [Repealed.]

§12-1A-8. Penalties for violation of article.

1 [Repealed.]

§12-1A-9. Effective dates.

1 [Repealed.]

NOTE: The purpose of this bill is to remove and repeal outdated and obsolete code provisions.

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