

*Title 112  
procedures (rules)*

~~State Auditor~~

State Treasurer + *State Auditor*

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

Chapter ~~12-4~~  
Series ~~2~~  
(1979)

THIS DATE *5/22/79*

SUBJECT: Substitute Checks--Exceptional Items Fund

Section 1. General

1.01 Authority--These rules are issued under the authority of section eleven, article four, chapter twelve of the Code of West Virginia, 1931, as amended.

1.02 General Purpose and Scope--These rules implement the provisions of the above-mentioned code section which authorizes the state auditor and state treasurer to promulgate joint rules and regulations establishing procedures and conditions for issuance of substitute checks to payees in cases where state checks originally issued were erroneous or where such checks have been lost, mutilated, destroyed, stolen or forged.

Section 2. Procedures and Conditions for Issuance of Duplicate or Substitute Checks

(a) Where the originally-issued check contains a material error or has been mutilated to the extent that the payee cannot cash said check, the issuing agency shall return said check to the treasurer with a requisition for a duplicate check. The auditor and treasurer shall cause said duplicate check to be issued on the same account and with the same check number as the original check.

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THIS DATE *8-7-79*

(b) Upon receipt by the treasurer of notification that an originally-issued check has not been received by the payee or has been lost, stolen, or irretrievably destroyed, the treasurer shall forthwith issue a stop payment order to the bank on which such check is drawn. If the bank honors the stop payment order, the auditor and treasurer shall cause a new check to be issued out of the same account as is used for the replacement of checks not cashed within six months.

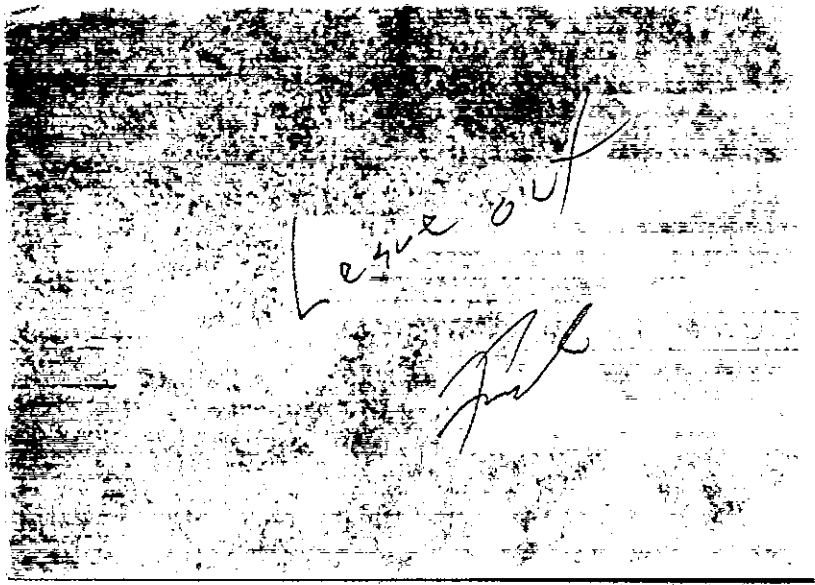
(c) In the event the bank refuses to honor the stop payment order specified in subsection (b), the treasurer shall notify the issuing agency of the bank's refusal. If the payee on said check then requests a substitute check the following procedure shall apply:

(1) The payee shall furnish to the treasurer, through the issuing agency, (i) an affidavit certifying to the non-receipt, loss, theft or destruction of the original check, as the case may be, and (ii) a lost instrument bond, which shall be in substantially the form set forth on page one of the Appendix to these rules, and

(2) The treasurer shall review the affidavit and bond and, if he finds that said documents are in proper form, he shall transmit to the auditor a requisition for payment from the exceptional items fund along with the affidavit and bond. Nothing in these rules shall preclude the auditor from requiring additional supporting

information pursuant to his authority under article three, chapter twelve of the Code if he believes such additional information is necessary to support the claim for payment.

(d) If, upon issuance of a stop payment order under the circumstances specified in subsection (b), the bank notifies the treasurer that the originally-issued check has been presented and cashed, the treasurer shall send a copy of such paid check to the issuing agency, which shall notify the payee that the check has already been paid. If the payee claims that such check is a forgery, the payee shall furnish to the treasurer, through the issuing agency, an affidavit certifying to such forgery. Such affidavit shall be in substantially the form as set forth on page two of the Appendix to these rules. The payee shall also furnish a lost instrument bond as provided in subsection (c) above, and all other procedures set forth in subsection (c) shall thereupon apply. Nothing in these rules shall preclude the state from pursuing claims against a bank or any other party arising out of the cashing of a forged check.



Leave out

John

AFFIDAVIT

I/We, \_\_\_\_\_ of \_\_\_\_\_  
 \_\_\_\_\_, West Virginia, first being duly sworn  
 according to law, depose and say - that State of West Virginia Check  
 No. \_\_\_\_\_, dated \_\_\_\_\_, 19 \_\_\_\_, payable to  
 my/our order, in the amount of \_\_\_\_\_  
 \_\_\_\_\_ (Dollars (\$ \_\_\_\_\_)), and drawn on the \_\_\_\_\_  
 \_\_\_\_\_, has never been endorsed by  
 me/us; that I/we did not authorize anyone to endorse same for me/us;  
 that the amount represented by said check, or any part thereof, has  
 not been received by me/us; that I/we did not authorize anyone to  
 receive all or any part of said check for me/us or for my/our credit;  
 that any signature appearing on the back of said check purporting  
 to be my/our endorsement is a forgery.

\_\_\_\_\_  
 \_\_\_\_\_  
 (Lines below to be used only  
 if signature is made by mark)

Name \_\_\_\_\_ Witness to mark

Address \_\_\_\_\_

Name \_\_\_\_\_ Witness to mark

Address \_\_\_\_\_

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 STATE OF WEST VIRGINIA

COUNTY OF \_\_\_\_\_ To-wit:

Taken, sworn to and subscribed before me this the \_\_\_\_\_ day  
 of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
 Notary Public

My Commission expires \_\_\_\_\_

(Notary should require person signing affidavit to read same or  
 have it read to him or her and make certain that the contents are  
 fully understood.)

AFFIDAVIT

I, \_\_\_\_\_, being duly sworn,  
depose and say that I reside at \_\_\_\_\_

\_\_\_\_\_  
Give Complete Address

That I have not received check No. \_\_\_\_\_ from  
the State of West Virginia due me by virtue of \_\_\_\_\_

\_\_\_\_\_  
(State reason for receiving check and name of issuing agency)

and that I have no knowledge or information as to the present  
whereabouts of said check.

That I have made or caused to be made a diligent search for  
said check and have been unable to find or recover same; that said  
check has not been assigned, pawned, pledged, transferred, endorsed  
or otherwise disposed of in any manner by me or on my behalf by  
any agent or member of my family. .

That this affidavit is made and the accompanying bond of  
indemnity is given for the purpose of inducing the issuance of a  
new or duplicate check in lieu and in substitution or in exchange  
for said lost, stolen or destroyed check without requiring the  
surrender of the original, or the payment, delivery, exchange or  
credit in respect to such original without such surrender.

If such new or duplicate check is so issued I do hereby agree  
that if said lost check comes into my hands I will deliver or  
cause the same to be delivered to the treasury of the State of  
West Virginia for cancellation.

\_\_\_\_\_  
Signature of person making Affidavit

Subscribed and sworn to before me this \_\_\_\_\_ day of

\_\_\_\_\_, 19\_\_\_\_.

My Commission expires \_\_\_\_\_ 19\_\_\_\_.

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF, the undersigned have hereunto signed their names and affixed their seals the \_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

\_\_\_\_\_  
Principal (SEA)

\_\_\_\_\_  
Surety (SEA)

STATE OF WEST VIRGINIA

COUNTY OF \_\_\_\_\_, To wit:

I, \_\_\_\_\_, a Notary Public in and for the county and state aforesaid, do certify that \_\_\_\_\_

\_\_\_\_\_ whose name is signed to the foregoing writing as principal, bearing date the \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_,

has this day acknowledged the same before me in the county and state aforesaid.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

STATE OF WEST VIRGINIA

COUNTY OF \_\_\_\_\_, To wit:

I, \_\_\_\_\_, a Notary Public in and for the county and state aforesaid, do certify that \_\_\_\_\_

\_\_\_\_\_ whose name is signed to the foregoing writing as surety, bearing date the \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_,

has this day acknowledged the same before me in the county and state aforesaid.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS;

That we, \_\_\_\_\_ as principal residing at \_\_\_\_\_, and \_\_\_\_\_, as surety, residing at \_\_\_\_\_, are held and firmly bound unto the State of West Virginia, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for which payment well and truly to be made we bind ourselves firmly by these presents.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

The condition of this obligation is such that, whereas the said principal represents that a negotiable check made by the State of West Virginia for \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), bearing Check No. \_\_\_\_\_ dated \_\_\_\_\_, has been lost and cannot be found or produced by the said \_\_\_\_\_; and whereas, at the request of said \_\_\_\_\_ and on the promise of the principal and surety to save harmless and indemnify the said State of West Virginia, the State of West Virginia will hereby issue to the said \_\_\_\_\_ a new check, paid to his order in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), in full discharge of the liability of the said State of West Virginia as drawer of said check.

Now, therefore, if the said \_\_\_\_\_ and \_\_\_\_\_, their heirs, executors, and administrators, shall assume and pay all claims, demands, damages, judgments, costs, awards, expenses, and charges, including reasonable attorney's fee in defending all suits and actions, whether groundless or not, which the said State of West Virginia may be compelled to pay, or incur, or become liable for, by reason of said original check, and if the said \_\_\_\_\_, shall deliver to the said State of West Virginia said check, as soon as the same shall be found, for cancellation, or after the passage of one year from the date of issuance of the original check, whichever occurs first, then this obligation to be void; otherwise, to be and remain in full force and effect.



AUTHORITY

This Rule is promulgated pursuant to Section 21, Article 1, Chapter 32, Code of West Virginia, 1931 as amended and readopted by the Securities Commissioner.

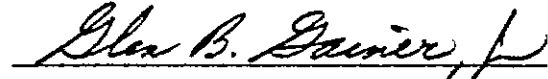
EFFECTIVE DATE

This regulation is promulgated on July 18, 1979, and becomes effective Thirty Days thereafter.

FILING DATE

This regulation was filed in the office of the Secretary of State on July 18, 1979.

This Regulation is certified authentic by the State Auditor, Glen B. Gainer, Jr. by certification No. 79/1, and by his hand and official seal set hereunto.



Glen B. Gainer, Jr., State Auditor  
And Securities Commissioner

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 7-18-79

BE IT ENACTED PURSUANT TO THE COMMISSIONER OF SECURITIES, GLEN B. GAINER, JR., RULE MAKING AUTHORITY AN ADMINISTRATIVE REGULATION HENCEFORTH KNOWN AS:

S. R 9 Application to Register Securities Offered On A Continuing Basis.

Application for registration or for amendment of registration of a face-amount certificate company, a redeemable security issued by an open-end management company, unit investment trust or any security to be issued on a continuing or recurring basis.

S. R 9.01 Shall not exceed \$3,000,000 in amount, and normally will be the amount reasonably expected to be sold or issued within a period of two years;

S. R 9.02 Shall be by means of a separate application for each individual fund for which registration by a face-amount certificate company, an open-end management company or unit investment trust is sought.

In authentication hereof, the seal of the West Virginia Division of Securities is affixed hereto, and the undersigned, the Commissioner of Securities and State Auditor has hereunto set his hand at

Charleston, West Virginia  
Glen B. Gainer, Jr.  
State Auditor

this the 18 day of July 1979.

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 7-18-79