



# State of West Virginia

OFFICE OF THE STATE TREASURER

CHARLESTON, WV 25305

JOHN D. PERDUE  
STATE TREASURER

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JERRY SIMPSON  
ASSISTANT STATE TREASURER

July 11, 1997

Ms. Judy Cooper  
Secretary of State's Office  
State Capitol Complex  
Charleston, West Virginia 25305

Dear Ms. Cooper:

As requested by the Secretary of State's Office, the State Treasurer's Office is asking the emergency rules filed on May 30, 1997 be withdrawn. The series' to be withdrawn are as follows: series 3, 4, 6, 7, 8, 9, and 10. In the event the rules need to be refiled in an emergency based for a specific case, the State Treasurer's Office retains the right to refile these emergency rules at a later date.

If you have any questions please contact me or Jim McMillon at 558-5000.

Sincerely,

Jerry Simpson  
Assistant State Treasurer

c: John Perdue, State Treasurer  
Jim McMillon  
file

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

JUL 11 3 04 PM '97

FILED

**WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION**

Form #7

Filing Date

**FILED**

May 30 5 02 PM '97

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Effective Date

**NOTICE OF AN EMERGENCY RULE**

AGENCY: State Treasurer's Office TITLE NUMBER: 112CSR7

CITE AUTHORITY: W.V.Code - Section 12-1-2

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: Series 7

TITLE OF RULE BEING FILED AS AN EMERGENCY: Selection of State Depositories

for Receipt Accounts

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

See Attached

  
Signature

Use additional sheets if necessary

DATE: 5/30/97

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: State Treasurer's Office

EMERGENCY RULE TITLE: Selection of State Depositories for Receipt Accounts (112CSR7)

1. Date of Filing 5/30/97

2. Statutory authority for promulgating emergency rule:

W.V.Code - Section 12-1-2

3. Date of filing of proposed legislative rule: 5/30/97

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?

This rule promulgated via Senate Bill 563 adopts new language.

5. Has the same or similar emergency rule previously been filed and expired?

N/A

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

N/A

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A.

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8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

This rule is required according to legislation passed in

Senate Bill 563, effective 4/12/97. Substantial harm to the public interest could result by operating without this rule.

(See Statement of Circumstances of Proposed Rule)

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**SUMMARY OF PROPOSED RULE**

**TITLE 112**

**LEGISLATIVE RULE**

**STATE TREASURER'S OFFICE**

**SERIES 7**

**SELECTION OF STATE DEPOSITORIES FOR RECEIPT ACCOUNTS**

This rule implements the provisions of W. Va. Code §12-1-2, wherein the State Treasurer's Office is required to select depositories for receipt accounts.

**STATEMENT OF CIRCUMSTANCES OF PROPOSED RULE**

**TITLE 112**

**LEGISLATIVE RULE**

**STATE TREASURER'S OFFICE**

**SERIES 7**

**SELECTION OF STATE DEPOSITORIES FOR RECEIPT ACCOUNTS**

This agency approved rule is needed to comply with provisions of W. Va. Code embodied in Senate Bill 563, passed during the 1997 Regular Legislative Session, effective from passage on April 12, 1997. Senate Bill 563 expanded some of the State Treasurer's functions and duties and transferred several functions and duties of the West Virginia State Board of Investments to the State Treasurer's Office. Without this rule, the public interest can be substantially harmed by the loss of public moneys, since no state depositories could be selected to receive state moneys.

This rule implements the provisions of W. Va. Code §12-1-2, wherein the State Treasurer's Office is required to select depositories for receipt accounts. This rule carries out the legislative intent, as stated in the above-cited code section, so that the selection of receipt depositories will enable the state to obtain the most efficient service at the lowest possible cost.

**TITLE 112  
LEGISLATIVE RULE  
STATE TREASURER'S OFFICE**

**SERIES 7  
SELECTION OF STATE DEPOSITORIES FOR RECEIPT ACCOUNTS**

**§112-7-1. General.**

1.1. Scope. -- These rules implement the provisions of W. Va. Code §12-1-2, wherein the State Treasurer's Office is required to select depositories for receipt accounts.

1.2. Authority. -- W. Va. Code §12-1-2.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. General Purpose. -- The purpose of these rules is to carry out the legislative intent, as stated in the above-cited code section, so that the selection of receipt depositories will enable the state to obtain the most efficient service at the lowest possible cost.

**§112-7-2. Definitions.**

For purposes of these rules, unless a different meaning is clearly required by the context:

2.1. "Agency" means and includes any department, board, commission, division, branch office or other separate unit of State government, and any officer or employee thereof, who or which collects moneys due the State;

2.2. "Code" means the 1931 code of West Virginia, as amended;

2.3. "Compensating balance" means the cash balance which the State will maintain with a depository to compensate the depository for its services;

2.4. "Receipt accounts" means those accounts in which are deposited moneys belonging to or due the State of West Virginia or any agency, thereof; and

2.5. "Treasurer" means the West Virginia State Treasurer.

**§112-7-3. Selection of Depositories for Receipt Accounts.**

The Treasurer recognizes that not only the services but the location of receipts depositories are of major concern to the agencies whose collections are to be deposited. Accordingly, the Treasurer in cooperation with the affected agencies shall ensure that receipts depositories are conveniently located for the agencies and are able to serve their needs.

**§112-7-4. Procedures.**

Each collecting agency shall notify the Treasurer of its anticipated collections and deposits including

the extent of activity of its accounts, size of accounts, frequency of deposits, special services that may be needed and other information requested by the Treasurer. The agency also may submit its preferred choice or a list of preferred choices of banks. If the agency submits such preferred choice or list, it shall submit therewith a statement of the reasons for its preference. However, the Treasurer is not required to select the bank or banks preferred by the agency. The Treasurer shall review the information submitted by the agency and shall consider:

- 4.1. The activity of the various accounts;
- 4.2. The reasonable value of the banking services to be rendered;
- 4.3. The value and importance of such deposits to the economy of the communities and the various areas of the State affected; and
- 4.4. The recommended depository's proposed fee schedule as required by Subsection 5.1 of these rules.

#### **§112-7-5. Compensation.**

5.1. Method of Compensation - Compensation to the depository for its services shall be made by means of either of the following three methods:

5.1.1. A compensating balance computed by the Treasurer on a monthly basis using the average collected balance. The depository shall submit proposed fee schedules for types of services rendered by the depository, including but not limited to services such as wire transfers, checks cashed, returned checks, and cash handling. The proposed fee schedules shall be subject to review and approval by the Treasurer. If the fee schedules are approved by the Treasurer, a contract shall be entered into with the depository for the furnishing of the required services. If the fee schedules are not approved by the Treasurer, the Treasurer may negotiate satisfactory revised fee schedules with the depository or select another depository. The monthly total fee for the services rendered shall be converted to a compensating balance by using the average 90-day U. S. Treasury bill rate (bond equivalent yield).

The following example will illustrate how the compensating balance will be computed and applied:

1) Assume that the average 90-day U. S. Treasury bill rate for the affected month is .10;

2) The multiplier for annualization is twelve; and the fee for the services, if rendered on a fee basis, would equal \$560.0 for the affected month. Accordingly, the compensating balance to be maintained for the next month is \$67,200 derived as follows:

$$\begin{array}{rcl} \underline{\$560} \times 12 & & \\ .10 & = & \$67,200 \end{array}$$

If any overcompensation or undercompensation occurs during a given month, the compensating balance for the following month shall be appropriately adjusted in order to fairly compensate the depository for services rendered.

5.1.2. A compensating balance derived by accumulated receipts in the receipts account and periodically transferring such balance to a central depository designated by the Treasurer. This method of compensation shall be used for depositories whose receipts are not of sufficient volume to justify use of the method in subdivision (1) of this section.

Upon Treasurer approval, a contract shall be entered into with the depository for the furnishing of

required services.

5.1.3. The Treasurer may authorize the bank to invoice the Treasurer. In such case, the Treasurer will pay the invoice with a State warrant.

5.2. Compensation for Ancillary Services - The Treasurer may, from time to time, require the depository to furnish certain ancillary services in the course of providing the basic service for which it was selected. For example, the Treasurer may specify that a depository for receipts shall furnish analytical reports. The Treasurer may also specify that the depository shall be compensated for the cost of furnishing services on a flow-through basis. In such event, the bank shall be compensated for such service by one of the three methods described in Subsection 5.1 of this Rule.

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

**Rule Title:** Selection of State Depositories for Receipt Accounts (112CSR7)

**Type of Rule:** X **Legislative**         **Interpretive**         **Procedural**

**Agency**                    State Treasurer's Office

**Address**                    State Capitol, Room E-145

Charleston, West Virginia 25305

Contact Person: Anoop Bhasin - Telephone (304) 341-0704

**1. Effect of Proposed Rule**

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
<b>PERSONAL SERVICES</b>					
<b>CURRENT EXPENSE</b>					
<b>REPAIRS &amp; ALTERNATIONS</b>					
<b>EQUIPMENT</b>					
<b>OTHER</b>					

**2. Explanation of above estimates:**

Bids are currently the accepted method of procurement and are a part of the normal expenses of the office.

**3. Objectives of these rules:**

Comply with Senate Bill 563 as passed by the Legislature during the 1997 Legislative Session.

**Rule Title:** Selection of State Depositories for Receipt Accounts (112CSR7)

**4. Explanation of Overall Economic Impact of Proposed Rule.**

**A. Economic Impact on State Government.**

N/A

**B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.**

Provide fair, equitable competition for state contracts for state depositories/receipts accounts.

**C. Economic Impact on Citizens/Public at Large.**

N/A

**Date:** 5/30/97

**Signature of Agency Head or Authorized Representative**

*John Perdue*

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

**Rule Title:** Selection of State Depositories for Receipt Accounts (112CSR7)

**Type of Rule:** X Legislative         Interpretive         Procedural

**Agency**                    State Treasurer's Office

**Address**                    State Capitol, Room E-145

Charleston, West Virginia 25305

Contact Person: Anoop Bhasin - Telephone (304) 341-0704

**1. Effect of Proposed Rule**

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

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