

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003



ENROLLED

House Bill No. 2514

(By Delegates R. M. Thompson, Perry and G. White)



Passed March 7, 2003

In Effect Ninety Days from Passage

FILED

2003 MAR 17 P 4: 48

OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 2514

(BY DELEGATES R. M. THOMPSON, PERRY AND G. WHITE)

[Passed March 7, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article three, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authority of the board of banking and financial institutions to remove directors, officers or employees of financial institutions and prohibit them from participating in the conduct of affairs of other financial institutions.

Be it enacted by the Legislature of West Virginia:

That section two, article three, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. BOARD OF BANKING AND FINANCIAL INSTITUTIONS.

§31A-3-2. General powers and duties.

- 1 (a) In addition to other powers conferred by this chapter,
- 2 the board has the power to:

3 (1) Regulate its own procedure and practice;

4 (2) Promulgate reasonable rules to implement any provision
5 of this article in accordance with the provisions of article three,
6 chapter twenty-nine-a of this code;

7 (3) Advise the commissioner in all matters within his or her
8 jurisdiction;

9 (4) Study the organization, programs and services of
10 financial institutions and the laws relating thereto in this state
11 and in other jurisdictions, and to report and recommend to the
12 governor and the Legislature all such changes and amendments
13 in laws, policies and procedures relating thereto as it considers
14 proper;

15 (5) Grant permission and authority to a financial institution:

16 (A) To participate in a public agency hereafter created
17 under the laws of this state or of the United States, the purpose
18 of which is to afford advantages or safeguards to financial
19 institutions or to depositors therein, and to comply with all
20 lawful requirements and conditions imposed upon those
21 participants;

22 (B) To engage in any financial institution activity, services,
23 procedures and practices in which financial institutions of the
24 same type subject to the jurisdiction of the federal government
25 may hereafter be authorized by federal laws, rules or regula-
26 tions to engage, notwithstanding any contrary provision of this
27 code; and

28 (C) To pay interest on demand deposits of the United States
29 or any agency thereof, if the payment of interest is permitted
30 under any applicable federal law, rule or regulation.

31 Any permission and authority granted by the board pursuant
32 to this subdivision shall terminate upon the adjournment of the
33 next regular session of the Legislature, unless the Legislature
34 enacts legislation authorizing the financial institution participa-
35 tion, activity, services and procedures or payment of interest
36 with respect to which such permission and authority were
37 granted, in which event the permission and authority shall
38 continue in effect until the effective date of the legislation; and

39 (6) Seek judicial enforcement to compel compliance with
40 any of its orders and to seek and obtain civil penalties as set
41 forth under this chapter.

42 (b) The board also has the power, by entering appropriate
43 orders, to:

44 (1) Restrict the withdrawal of deposits from any financial
45 institution when, in the judgment of the board, extraordinary
46 circumstances make the restrictions necessary for the protection
47 of creditors of and depositors in the affected institution;

48 (2) Compel the holder of shares in any corporate financial
49 institution to refrain from voting the shares on any matter when,
50 in the judgment of the board, the order is necessary to protect
51 the institution against reckless, incompetent or careless man-
52 agement, to safeguard funds of depositors in the institution or
53 to prevent willful violation of any applicable law or of any rule
54 and regulation or order issued thereunder. In such a case the
55 shares of the holder may not be counted in determining the
56 existence of a quorum or a percentage of the outstanding shares
57 necessary to take any corporate action;

58 (3) Approve or disapprove applications to incorporate and
59 organize state banking institutions in accordance with the
60 provisions of sections six and seven, article four of this chapter;

61 (4) Approve or disapprove applications to incorporate and
62 organize state-chartered bankers' banks in accordance with the
63 provisions of sections six and seven, article four of this chapter;

64 (5) Exempt a bankers' bank from any provision of this
65 chapter if the board finds that the provision is inconsistent with
66 the purpose for which a bankers' bank is incorporated and
67 organized and that the welfare of the public or any banking
68 institution or other financial institution would not be jeopard-
69 ized thereby;

70 (6) Revoke the certificate of authority, permit, certificate or
71 license of any state banking institution to engage in business in
72 this state if that institution fails or refuses to comply with any
73 order of the commissioner entered pursuant to the provisions of
74 paragraph (A) or (B), subdivision (15), subsection (c), section
75 four, article two of this chapter, or at the board's election to
76 direct the commissioner to apply to any court having jurisdic-
77 tion for a prohibitory or mandatory injunction or other appropri-
78 ate remedy to compel obedience to such order;

79 (7) Suspend or remove a director, officer or employee of
80 any financial institution who is or becomes ineligible to hold
81 that position under any provision of law or rule and regulation
82 or order, or who willfully disregards or fails to comply with any
83 order of the board or commissioner made and entered in
84 accordance with the provisions of this chapter or who is
85 dishonest or grossly incompetent in the conduct of financial
86 institution business and prohibit that director, officer or
87 employee from participating in the affairs of any other financial
88 institution until further order of the board;

89 (8) To receive from state banking institutions applications
90 to establish branch banks by the purchase of the business and
91 assets and assumption of the liabilities of, or merger or consoli-
92 dation with, another banking institution, or by the construction,

93 lease or acquisition of branch bank facilities in an unbanked
94 area; examine and investigate such applications, to hold
95 hearings thereon, and to approve or disapprove such applica-
96 tions, all in accordance with section twelve, article eight of this
97 chapter;

98 (9) Approve or disapprove the application of any state bank
99 to purchase the business and assets and assume the liabilities of,
100 or merge or consolidate with, another state banking institution
101 in accordance with the provisions of section seven, article seven
102 of this chapter;

103 (10) Approve or disapprove the application of any state
104 bank to purchase the business and assets and assume the
105 liabilities of a national banking association, or merge or
106 consolidate with a national banking association to form a
107 resulting state bank in accordance with the provisions of section
108 seven, article seven of this chapter; and

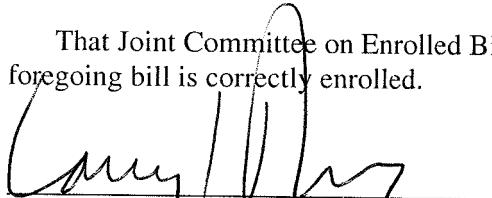
109 (11) In addition to any authority granted pursuant to section
110 twelve, article eight of this chapter, incident to the approval of
111 an application pursuant to subdivision (7) or (8) of this subsec-
112 tion, permit the bank the application of which is so approved to
113 operate its banking business under its name from the premises
114 of the bank the business and assets of which have been pur-
115 chased and the liabilities of which have been assumed by such
116 applicant bank or with which the applicant bank has merged or
117 consolidated: *Provided*, That this permission may be granted
118 only if the board has made the findings required by subsection
119 (f), section three of this article and such applicant bank has no
120 common directors or officers nor common ownership of stock
121 exceeding ten percent of total outstanding voting stock with the
122 bank whose business and assets are being purchased and
123 liabilities assumed, or with whom the applicant bank is being
124 merged; and

125 (12) To receive an appeal from any party who is adversely
126 affected by an order of the commissioner issued pursuant to
127 section twelve-d, article eight of this chapter, and hold hearings
128 in accordance with the provisions of article five, chapter
129 twenty-nine-a of this code.

130 (c) A provision of this section may not be construed to
131 alter, reduce or modify the rights of shareholders, or obligations
132 of a banking institution in regard to its shareholders, as set forth
133 in section one hundred seventeen, article one, chapter thirty-one
134 of this code and section seven, article seven of this chapter, and
135 other applicable provisions of this code.

136 (d) Any order entered by the West Virginia board of
137 banking and financial institutions pursuant to this section is a
138 matter of public record.

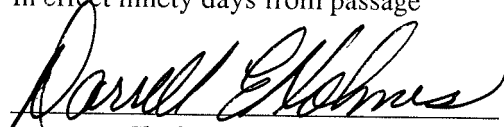
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

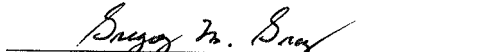

Chairman Senate Committee

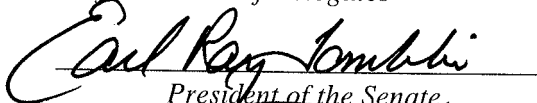

Chairman House Committee

Originating in the House.

In effect ninety days from passage


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate.


Speaker of the House of Delegates

The within is approved this the 17th
day of March, 2003


Governor

PRESENTED TO THE
GOVERNOR

Date 3/14/03

Time 9:30am