WEST VIRGINIA CODE: §31A-4-13

§31A-4-13. Powers of state banking institutions generally.

(a) Any state-chartered banking institution has and may exercise all of the powers necessary for, or incidental to, the business of banking and, without limiting or restricting such general powers, it shall have the right to buy or discount promissory notes and bonds; negotiate drafts, bills of exchange and other evidences of indebtedness; borrow money; receive deposits on such terms and conditions as its officers may prescribe; buy, sell or exchange bank notes, bullion or coin; loan money on personal or other security; rent safe-deposit boxes and receive on deposit for safekeeping jewelry, plate, stocks, bonds and personal property of whatsoever description; and provide customer services incidental to the business of banking, including, but not limited to, the issuance and servicing of and lending money by means of credit cards as letters of credit or otherwise. Any state-chartered banking institution may accept, for payment at a future date not to exceed one year, drafts drawn upon it by its customers. Any state-chartered banking institution may issue letters of credit, with a specified expiration date or for a definite term, authorizing the holders thereof to draw drafts upon it or its correspondents, at sight or on time. Any such banking institution may organize, acquire, own, operate, dispose of and otherwise manage wholly owned subsidiary corporations or entities that are jointly owned with other insured depository institutions for purposes incident to the banking powers and services authorized by this chapter provided any wholly owned or jointly owned entities are subject to federal and state examination and supervision as if the activities are conducted by the bank.

(b) Any state-chartered banking institution may acquire, own, hold, use and dispose of real estate which may not be carried on its books at a value greater than the actual cost: Provided, That the property must be necessary for the convenient transaction of its business, including any buildings, office space or other facilities to rent as a source of income: Provided, however, That the investment hereafter made may not exceed sixty-five percent of the amount of its capital stock and surplus, unless the consent in writing of the Commissioner of Banking is first secured.

(c) Any state-chartered banking institution may acquire, own, hold, use and dispose of real estate which shall be carried on its books at the lower of fair value or cost as defined in rules promulgated by the Commissioner of Banking, subject to the following limitations:

(1) Such as may be mortgaged to it in good faith as security for debts in its favor;

(2) Such as may be conveyed to it in satisfaction of debts previously contracted in the course of its business dealings; and

(3) Such as it may purchase at sales under judgments, decrees, trust deeds or mortgages in its favor, or may purchase at private sale, to secure and effectuate the payment of debts due to it.

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(d) The value at which any real estate is held may not be increased by the addition thereto of taxes, insurance, interest, ordinary repairs or other charges which do not materially enhance the value of the property.

(e) Any real estate acquired by any such banking institution under subdivisions (2) and (3), subsection (c) of this section shall be disposed of by the banking institution at the earliest practicable date, but the officers thereof shall have a reasonable discretion in the matter of the time to dispose of such property in order to save the banking institution from unnecessary losses: Provided, That in every case such property shall be disposed of within ten years from the time it is acquired by the banking institution, unless an extension of time is given in writing by the Commissioner of Banking.

(f) The sale of insurance by state-chartered banking institutions is subject to the following:

Any state-chartered banking institution having its main or a branch office in any place the population of which does not exceed five thousand inhabitants, as shown by the last preceding decennial census, through its employees or agents, may, from that place or office, directly or through a controlled subsidiary, act as agent for any fire, life, casualty, liability or other insurance company authorized by the authorities of the state to do business in this state, by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered all permissible fees or commissions as may be agreed upon between the bank and the insurance company for which it may act as agent: Provided, That no bank may in any case assume or guarantee the payment on insurance policies issued through its agency by its principal: Provided, however, That the bank may not guarantee the truth of any statement made by an insured in filing his her or its application for insurance. For purposes of this section, a "controlled subsidiary" is one in which the state-chartered banking institution owns at least eighty percent of all classes of stock. This provision is intended to give state-chartered banking institutions parity with national banks operating in this state with regard to the marketing and sale of insurance, notwithstanding the prohibitions and limitations contained in article eight-c or elsewhere in this chapter and shall be construed consistently with interpretations of 12 U.S.C. §92, the regulations promulgated thereunder and any successor legislation or regulations.

(g) Any state-chartered banking institution may, through its employees or agents, market and sell, as agent, annuities either at its main office or at any of its branches. The marketing and sale of annuities may be made by the bank, through its employees or agents, directly, or through a controlled subsidiary as defined in subsection (f) of this section. This provision is intended to give state-chartered banks parity with national banks operating in this state with regard to the sale of annuities, notwithstanding the prohibitions and limitations contained in article eight-c or elsewhere in this chapter.

(h) Unless waived in writing by the commissioner, a state-chartered bank may not invest or otherwise expend more of its capital and surplus calculated at the end of the previous calendar year on the activities permitted by subsections (f) and (g) of this section on an aggregate basis together with any of its approved financially related products and services

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than would be allowed for a national bank providing the same services. For purposes of this section, "approved financially related products and services" means those products and services offered by a state-chartered bank pursuant to an approved application submitted under article eight-c of this chapter.

(i) The commissioner shall promulgate rules in accordance with chapter twenty-nine-a of this code relating to the sale of insurance or annuities, including, but not limited to, rules requiring notice of the intention to engage in such activities and relating to the policies and procedures state-chartered banking institutions should adopt in connection with these activities.

(j) Any state-chartered banking institution and its employees or agents engaged in the sale of insurance or annuities permitted hereby must also comply with all applicable requirements for the sale of such products imposed by the West Virginia Commissioner of Insurance and by any state or federal securities regulator.

(k) No state-chartered banking institution may hereafter invest more than twenty percent of the amount of its capital and surplus in furniture and fixtures, whether the same be installed in a building owned by the banking institution, or in quarters leased by it, unless the consent in writing of the Commissioner of Banking is first secured.

(l) No financial institution, banking institution, state bank or out-of-state bank may establish or maintain a branch in this state on, or within one and one-half miles of, the premises or property of an affiliate at which the affiliate engages in commercial activities.

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