WEST VIRGINIA CODE: §31A-4-14

§31A-4-14. Trust powers of banking institutions.

(a) Every state banking institution which files the reports required in section fifteen of this article and which is not otherwise prohibited by the commissioner or federal bank regulators from doing so, has and may exercise the following powers:

(1) All the powers, rights and privileges of any state banking institution;

(2) To act as trustee, assignee, special commissioner, general or special receiver, guardian, executor, administrator, committee, agent, curator or in any other fiduciary capacity, and to take, assume, accept and execute trusts of every description not inconsistent with the Constitution and laws of the United States of America or of this state; and to receive, hold, manage and apply any sinking fund on the terms and for the purposes specified in the instrument creating the fund;

(3) To act as registrar, transfer agent or dividend or coupon paying agent for any corporation;

(4) To make, hold and dispose of investments and establish common trust funds, and account therefor, pursuant to the provisions of chapter forty-four of this code;

(5) To purchase and sell and take charge of and receive the rents, issues and profits of any real estate for other persons or corporations;

(6) To act as trustee or agent in any collateral trust and in order to secure the payment of any obligations of any person, firm, private corporation, public corporation, public body or public agency to receive and hold in trust any items of personal property (including, without limitation, notes, bonds, debentures, obligations and certificates for shares of stock) with the right in case of default to sell and dispose of such personal property and to collect, settle and adjust any obligations for the payment of money, and at any sale of personal property held by it, to purchase the same for the benefit of all or any of the holders of the obligations, to secure the payment of which the items of personal property were pledged and delivered to the trustee or agent. Any such sale may be made without any proceedings in any court, and at such times and upon such terms as may be specified in the instrument or instruments creating the trust, or, in the absence of any specification of terms, at the time and upon the terms as the trustee considers reasonable; and

(7) To do and perform any act or thing requisite or necessary in, or incidental to, the exercise of the general powers herein set forth.

(b) All national banks having their main office in this state which have been, or hereafter may be, authorized under the laws of the United States to act as trustee and in other

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fiduciary capacities in the State of West Virginia shall have all the rights, powers, privileges and immunities conferred hereunder, provided they comply with the requirements hereof.

(c) Banks having their main office in another state which lawfully have a branch in this state pursuant to the provisions of federal law or articles eight-d or eight-e of this chapter which have been, or hereafter may be, authorized under the laws of the United States or the laws of the state in which the bank is chartered to act as trustee and in other fiduciary capacities in the state in which their main office is located have all the rights, powers, privileges and immunities conferred hereunder, provided they comply with the requirements hereof.

(d) Any bank having its main office or a branch located in this state pursuant to subsection (c) of this section may offer trust services, but not deposit taking services, as described, permitted and authorized in this section or other applicable sections of this code through an affiliated nonbanking subsidiary of a bank holding company, a nonbanking entity in which the bank owns an interest along with other insured depository institutions, or its own nonbanking subsidiary if the nonbanking affiliate, subsidiary or jointly owned entity:

(1) Maintains a fidelity bond in the same form and amount as would be required of a banking institution providing trust services;

(2) Maintains unimpaired tangible capital and surplus of at least $2 million, or more if determined necessary by the commissioner;

(3) Is subject to examination and supervision by the bank's federal or state chartering authority, the federal deposit insurance corporation or by the board of Governors of the federal reserve system or both the federal deposit insurance corporation and the board of Governors of the federal reserve system to the same extent and in the same manner as if the trust services were offered directly by the bank or banks;

(4) Has as its primary purpose the provision of trust services; and

(5) Registers with the commissioner of banking, on a form prescribed by him or her, at least sixty days prior to providing or offering to provide those services in this state.

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