WEST VIRGINIA CODE CHAPTER 31A ARTICLE 5

WV Legislature

§31A-5-1. Definitions.

For the purposes of this article: "bank services," means services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a state bank or a national banking association and the sale of the services, use and products of machines and equipment as permitted by section thirty-seven, article four of this chapter; "bank service corporation" means a corporation organized under the laws of this state to perform bank services for two or more banking institutions, each of which owns part of the capital stock of such corporation, and the sale of the services, use and products of machines and equipment as permitted by section thirty-seven, article four of this chapter; and "invest" means any advance of funds to a bank service corporation, whether by the purchase of stock, the making of a loan, or otherwise, except the payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment.

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§31A-5-2. Authority of state banks to invest in bank service corporations.

Notwithstanding any other provision of law, any state bank is hereby authorized to invest not more than ten percent of its paid-in and unimpaired capital and unimpaired surplus in a bank service corporation. If stock in a bank service corporation has been held by two state banks, or by one such bank and one national banking association and one state bank or such association ceases to utilize the services of the corporation and ceases to hold stock in it, and leaves a state bank as the sole stockholder, the bank service corporation may nevertheless continue to function as such and such state bank may continue to hold stock in such corporation.

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§31A-5-3. Extension of bank services to competing banking institutions and associations.

Whenever a state bank or a national banking association applies for bank services for itself (hereinafter referred to in this section as "an applying bank") from a bank service corporation which supplies the same type of bank services to one or more other state banks or national banking associations, or both, and the applying bank is competitive with any state bank or national banking association which holds stock in such corporation (referred to in this section as a "stockholding bank"), the corporation must offer to supply such services by either:

(a) Issuing stock to the applying bank and furnishing bank services to it on the same basis as to the stockholding banks, or

(b) Furnishing bank services to the applying bank at rates no higher than necessary to reflect fairly the cost of such services, including the reasonable cost of the capital provided to the corporation by the stockholding banks, at the corporation's option, unless comparable services at competitive overall costs are available to the applying bank from another source, or unless the furnishing of the services sought by the applying bank would be beyond the practical capacity of the bank service corporation. In any action or proceeding to enforce the duty imposed by this section or for damages for the breach thereof, the burden shall be upon the bank service corporation to show the availability of such comparable services or that the furnishing of such services would be beyond the practical capacity of the bank service corporation.

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§31A-5-4. Bank service corporation activities limited.

No bank service corporation may engage in any activity other than the performance of bank services.

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§31A-5-5. Regulation and examination of performance of bank services.

No state bank may cause to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises, unless written assurances satisfactory to the commissioner of banking are furnished to him by both the state bank and the party performing such services that the performance thereof will be subject to regulation and examination by the commissioner and any federal supervisory agency to the same extent as if such services were being performed by the state bank on its own premises.

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