WEST VIRGINIA CODE CHAPTER 31A ARTICLE 6

WV Legislature

§31A-6-1. Procedures for nominee registration of securities.

Any bank, nonbanking subsidiary of a bank holding company, nonbanking subsidiary of a banking institution, or entity jointly owned by federally insured depository institutions authorized to exercise trust powers under section fourteen, article four of this chapter, which holds in a fiduciary capacity any stock, bond, debenture, note, warrant, certificate or other security evidencing ownership or interest, either whole or fractional, in fully paid and nonassessable intangible personal property, may cause the security or evidence of ownership, to be registered and held in the name of a nominee or nominees of the trust institution, or in its own name, without disclosing the fiduciary relationship, but, where the trust institution is acting jointly with some other individual or individuals, it must first secure the written consent of the individual fiduciary or fiduciaries thereto, which consent the individual fiduciary or fiduciaries are hereby authorized to give.

The placing of property in the name of a nominee, nominees or in the name of the trust institution, without disclosure of the fiduciary capacity, shall be deemed to be nominee registration under this article and every such registration shall ipso facto constitute a declaration of trust upon the part of the registered owner so far as the fiduciary and the beneficiaries of the fiduciary status are concerned.

For purposes of this article, the term "trust institution" means a bank, nonbanking subsidiary of a bank holding company, nonbanking subsidiary of a banking institution or entity jointly owned by federally insured depository institutions authorized to exercise trust powers under section fourteen, article four of this chapter.

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§31A-6-2. Duties of trust institutions making use of nominee registration.

Every trust institution making use of nominee registration as provided in this article shall:

(a) At all times maintain such records as may be necessary to show the actual beneficial ownership of the property so held;

(b) At all times retain possession and control of securities or other evidences of ownership which must be kept separate and apart from the assets of such trust institution and assets held in other fiduciary capacities;

(c) Secure from the nominee or nominees the endorsements, assignments or other writings as may be necessary to effect retransfer of the securities or other evidences of ownership without notice and such endorsements, assignments or other writings shall be valid and effective as of the date of delivery thereof whether the nominee die before transfer is perfected, or not;

(d) Enter into such contracts or agreements with its nominee or nominees as may be necessary to afford full protection to the ownership of its fiduciary account and the beneficiaries thereof;

(e) Clearly show in all of its reports and accounts the form of registration under which such securities or evidences of ownership are held.

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§31A-6-3. Civil liabilities and criminal penalties.

Any trust institution which places property in nominee registration under this article is absolutely liable in civil actions or suits for any or all loss or damage to its fiduciary account or the beneficiaries thereof occasioned by the acts of any of its nominees, or any of its agents, employees, or other persons acting for it with respect to such property, including reasonable attorney fees.

Any trust institution or its officers, employees, nominees or agents placing property in nominee registration in violation of any of the provisions of this article is guilty of a misdemeanor and, in addition to civil liability for restitution, shall be punished by a fine of not less than $50 nor more than $1,000.

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§31A-6-4. Limitations on liability in transfers and changes of registration.

No liability for any loss caused by the acts of the nominee of a trust institution may attach to any transfer agent, registrar, corporation, officer or agent of a corporation, or other person, who, in compliance with the directions of any trust institution acting under the provisions of this article, transfers or changes the registration of any property. The certification of the trust institution that it has complied with the provisions of this article is prima facie evidence of its compliance so far as any transfer agent, registrar, corporation, officer or agent of a corporation, or other person, is concerned.

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§31A-6-5. Registration of property to evade taxes prohibited.

No trust institution acting under the provisions of this article may cause or permit the use of its name or the name of its nominee or nominees for the purpose of registering property to evade, avoid or relieve itself or any other person, firm or corporation, or the property, from taxation.

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