

# WEST VIRGINIA CODE: §31A-8F-9

## **§31A-8F-9. Application to establish and maintain an agency office; manner of filing and determination.**

(a) A foreign bank making an application under this article for a license to establish and maintain a West Virginia state agency shall deliver to the West Virginia board of banking and financial institutions:

(1) At least two duplicate originals of the foreign bank's application on the form prescribed by the board;

(2) At least two copies of its charter or articles of incorporation and all amendments thereto, duly authenticated by the proper officer of the country of such foreign bank's organization together with translation of such documents if they are in a language other than English, which translation is attested to for accuracy before a notary public or other verifying official;

(3) A letter or resolution from its governing body or chief executive officer guaranteeing that the foreign bank's entire capital and surplus is and shall be available for all liabilities and obligations of its agency office doing business in this state;

(4) An application fee of \$1,000 payable by check or money order to the West Virginia board of banking and financial institutions;

(5) A document granting power of attorney in favor of the person designated to be in charge of the business and affairs of the proposed office; and

(6) Proof of fidelity bond coverage for active officers and employees, and the oath of the managing officer of the West Virginia office(s) to obey state banking laws as would be required were the institution a bank incorporated in this state.

(b) The board may approve issuance of a license to a foreign bank to establish and maintain a West Virginia state agency office if it finds:

(1) That the foreign bank is of sound financial standing;

(2) That the management of the foreign bank and the proposed management of the West Virginia state agency office are adequate and are of good reputation and character;

(3) That the convenience and needs of persons to be served by the proposed West Virginia state agency office will be promoted;

(4) That the foreign bank has committed to allocate and assign to its agency office within this state a capital equivalency deposit of not less than the greater of \$500,000 or five percent of the total liabilities of the agency, excluding accrued expenses, intercompany

liabilities and any amounts due the foreign bank: Provided, That the board may in its discretion require a higher deposit amount or rate to ensure the agency office's financial safety or soundness;

(5) That the proposed office is not being formed for other than legitimate motives and purposes;

(6) That the bank supervisory agency of the foreign bank's country of organization does not object to the application;

(7) That the applicant has submitted a legal opinion indicating that the proposed agency office will be permissible under both the laws of the foreign bank's country of organization and the United States; and

(8) That the foreign bank has complied with this section and satisfies such other standards as the board may establish by rule.

(c) If the board after investigation, notice and hearing determines to issue a license to a foreign bank to establish and maintain a West Virginia state agency office, it shall issue a written order granting the application and authorize the commissioner of banking on its behalf upon payment of all fees required under this article to:

(1) Endorse on each document filed as part of the application the word "Filed", and the date of the filing thereof and return to the foreign bank a copy of each document so endorsed;

(2) File in the office of the commissioner of banking one of the duplicate originals of the application and copies of the charter or articles of incorporation and amendments thereto; and

(3) Issue a license to establish and maintain a West Virginia state agency office to such foreign bank.

(d) Each license issued to a foreign bank to establish and maintain a West Virginia state agency shall state fully the name of the foreign bank to which such license is issued, the place of business for the licensee's office and all such other information as the commissioner may require.

(e) The board may, by rule or order, prescribe abbreviated application procedures and standards applicable to applications by foreign banks that have already established an initial West Virginia state agency office, subsequently to establish additional intrastate West Virginia state agency offices, as the case may be.

(f) Each licensee must register with the West Virginia Secretary of State as a foreign corporation qualified to do business in this state and provide proof of such registration to the commissioner of banking prior to conducting business under its license.