

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



## ENROLLED

HOUSE BILL No. 303

(By Mr. Lantz)



PASSED March 7 1935

In Effect from Passage

**ENROLLED**  
**House Bill No. 303**

(By MR. LANTZ, by request)

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[Passed March 2, 1935; in effect from passage.]

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AN ACT to authorize any bank, trust company, bank and trust company, banking association, stock savings bank or mutual savings bank now or hereafter organized under the laws of this state or the conservator, receiver or liquidator thereof, to enter into such contracts, incur such obligations and generally to do such acts as may be appropriate or necessary to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights or privileges which may, at any time, be available or enure to said banking institutions or their depositors or stockholders, or their conservators, liquidators, or receivers, by virtue of any acts or resolution of the Congress of the United States to aid, regulate or safeguard banking institutions and depositors, including the act creating the Fed-

eral Deposit Insurance Corporation; to empower any such banking institution to subscribe to and acquire any stock or debentures or bonds or other types of securities of said corporation and to comply with its regulations and requirements; to authorize the appointment of the Federal Deposit Insurance Corporation as receiver or liquidator of any such insured closed banking institution, and to authorize said corporation to do any and all things appropriate in the sale or acquirement of the assets of such institutions and in the liquidation of same; to make loans to same and to its receivers and liquidators and the state banking commissioner therefor; to provide for the subrogation of said corporation to the rights against said closed institutions of all insured depositors, whose deposits have been paid, or for the payment of which funds have been made available; to recognize right of said corporation to make examinations of and to require reports from such institution, and the state banking commissioner to accept same in lieu of any examination or report authorized to be made to said official; to provide for disclosure by said state banking commissioner to said corporation of the condition and affairs of such insured institution and access to information regard-

ing same; to provide for the vesting of title in said corporation of assets of such closed institutions and the right for the corporation, as receiver or liquidator, to enforce the individual liability of stockholders and directors thereof.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The term "banking institution", as used in this act shall be construed to mean any bank, trust company, bank and trust company, stock savings bank or mutual savings bank, which is now or may hereafter be organized under the laws of this state.

Sec. 2. Any banking institution now or hereafter organized under the laws of this state is hereby empowered, on the authority of its board of directors, or a majority thereof, to enter into such contracts, incur such obligations and generally to do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights or privileges, which may at any time be available or enure to banking institutions or to their depositors, creditors, stockholders, conservators, receivers or liquidators, by virtue of those provisions of section eight of the federal "Banking Act of one

17 thousand, nine hundred thirty-three'' (section twelve-(b) of the  
18 federal reserve act, as amended,) which establish the Federal  
19 Deposit Insurance Corporation and provide for the insurance  
20 of deposits, or of any other provisions of that or of any other  
21 act or resolution of Congress to aid, regulate or safeguard  
22 banking institutins and their depositors, including any amend-  
23 ments of the same or any substitutions therefor; also, to sub-  
24 scribe for and acquire any stock, debentures, bonds or other types  
25 of securities of the Federal Deposit Insurance Corporation and  
26 to comply with the lawful regulations and requirements from  
27 time to time issued or made by such corporation.

Sec. 3. The Federal Deposit Insurance Corporation created  
2 by section eight of the federal "Banking Act of one thousand,  
3 nine hundred, thirty-three'' (section twelve-(b) of the federal  
4 reserve act, as amended) is hereby authorized and empowered  
5 to be and act without bond as receiver or liquidator of any  
6 banking institution, the deposits in which are to any extent  
7 insured by said corporation, and which shall have been closed  
8 on account of inability to meet the demands of its depositors.  
9 The appropriate state authority having the right to ap-  
10 point a receiver or liquidator of a banking institution, may

11 in the event of such closing tender to said corporation the  
12 appointment as receiver or liquidator of such banking institu-  
13 tion, and if the corporation accepts said appointment, the  
14 corporation shall have and possess all the powers and privi-  
15 leges provided by the laws of this state with respect to a receiver  
16 or liquidator respectively of a banking institution, its de-  
17 positors and other creditors, and be subject to all the duties  
18 of such receiver or liquidator, except in so far as such powers,  
19 privileges or duties are in conflict with the provisions of  
20 subsection one of section twelve-B of the federal reserve act,  
21 as amended, (section eight of said Banking Act of one thousand,  
22 nine hundred, thirty-three’’).

Sec. 4. Whenever any banking institution shall have been  
2 closed as aforesaid, and said Federal Deposit Insurance Cor-  
3 poration shall pay or make available for payment the insured  
4 deposit liabilities of such closed institution, the corporation,  
5 whether or not it shall have become receiver or liquidator of  
6 such closed banking institution, as herein provided, shall be  
7 subrogated to all rights against such closed banking institution  
8 of the owners of such deposits in the same manner and to the  
9 same extent as subrogation of the corporation is provided

10 for in subsection (one) of section twelve-B of said federal re-  
11 serve act, as amended (being section eight of said “Banking  
12 Act of one thousand, nine hundred, thirty-three”) in the case of  
13 closing of a national bank: *Provided*, That the rights of de-  
14 positors and other creditors of such closed institution shall  
15 be determined in accordance with the applicable provisions  
16 of the laws of this state.

Sec. 5. The state banking commissioner is authorized to  
2 accept in his discretion in lieu of any examination authorized  
3 by the laws of this state to be conducted by his department of a  
4 banking institution the examination that may have been made  
5 of same within a reasonable period by the Federal Deposit  
6 Insurance Corporation provided a copy of said examination is  
7 furnished to said state banking commissioner. Said state  
8 banking commissioner may, also, in his discretion accept any  
9 report relative to the condition of a banking institution which  
10 may have been obtained by said corporation within a reason-  
11 able period, in lieu of a report authorized by the laws of this  
12 state to be required of such institution by his department, pro-  
13 vided a copy of such report is furnished to said state banking  
14 commissioner.

15 Said state banking commissioner may furnish to said cor-  
16 poration, or to any official or examiner thereof, a copy or  
17 copies of any or all examinations made of any such banking in-  
17-a stitution and of any or all reports made by same, and shall give  
18 access to and disclose to said corporation or any official or exam-  
19 iner thereof any and all information possessed by the office of  
20 said state banking commissioner with reference to the condi-  
21 tions or affairs of any such insured institution.

22 Nothing in this section shall be construed to limit the duty  
23 of any banking institution in this state, deposits in which are  
24 to any extent insured under the provisions of section eight  
25 of the "Banking Act of one thousand, nine hundred, thirty-  
26 three" (section twelve-(b) of the federal reserve act, as  
27 amended) or of any amendment of or substitution for the  
28 same, to comply with the provisions of said act, its amend-  
29 ments or substitutions, or the requirements of said corpora-  
30 tion relative to examinations and reports, nor to limit the  
31 powers of the state banking commissioner with reference to  
32 examinations and reports under existing law.

Sec. 6. With respect to any banking institution, which is  
2 now or may hereafter be closed on account of inability to meet



3 the demands of its depositors or by action of the state banking  
4 commissioner or of a court or by action of its directors or in  
5 the event of its insolvency or suspension, the state banking  
6 commissioner and/or the receiver or liquidator of such in-  
7 stitution with the permission of said state banking commis-  
8 sioner may borrow from said corporation and furnish any part  
9 or all of the assets of said institution to said corporation as  
10 security for a loan from the same, *Provided*, That where said  
11 corporation is acting as such receiver or liquidator, the order  
12 of a court of record of competent jurisdiction shall be first  
13 obtained approving such loan. Said state banking commis-  
14 sioner upon the order of a court of record of competent juris-  
15 diction, and upon a like order and with the permission of said  
16 state banking commissioner the receiver or liquidator of any such  
17 institution may sell to said corporation any part or all of the  
18 assets of such institution.

19 The provisions of this section shall not be construed to limit  
20 the power of any banking institution, the state banking com-  
21 missioner or receivers or liquidators to pledge or sell assets  
22 in accordance with any existing law.

Sec. 7. Upon the acceptance of the appointment of receiver

2 or liquidator aforesaid by said corporation, the possession of  
3 and title to all the assets, business and property of such banking  
4 institution of every kind and nature shall pass to and vest in  
5 said corporation and without the execution of any instruments  
6 of conveyance, assignment, transfer or endorsement.

Sec. 8. The validity of any provision or part of this act  
2 shall not be dependent upon any other provision or part there-  
3 of. If any provision or part thereof should for any reason  
4 be held unconstitutional or invalid such decision shall not af-  
5 fect the validity of any of the remaining provisions or parts  
6 of this act.

Sec. 9. All laws or parts of laws in conflict herewith are  
2 hereby repealed.

I certify that the foregoing act,  
having been presented to the Governor for  
his approval, and not having been returned  
by him to the House of the Legislature in  
which it originated within the time pre-  
scribed by the constitution of the state, has  
become a law without his approval.

This the 15th day of March,  
1935.

  
SECRETARY OF STATE

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Clinton L. Howard*

Chairman Senate Committee

*Arnold M. Tucker*

Chairman House Committee

Originated in the

*House of Delegates*

Takes effect

*from*

passage.

*Alfred M. ...*

Clerk of the Senate

*Geo. S. Hall*

Clerk of the House of Delegates

*Chas. E. Hoyle*

President of the Senate

*John C. ...*

Speaker House of Delegates.

The within this the

day of , 1935.

Governor.

Filed in the office of the Secretary of State  
of West Virginia.

**MAR 15 1935**

Wm. S. O'BRIEN,  
Secretary of State