

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



ENROLLED

HOUSE BILL No. 35

(By Mr. Fite, by request)



PASSED March 4, 1937

In Effect from Passage

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AN ACT to amend and reenact section eighteen, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, and as last amended and reenacted by chapter fourteen, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to limitations on loans by banking institutions and to the valuation of securities purchased by them.

Be it enacted by the Legislature of West Virginia:

Section 18. *Limitation on Loans; Authorization of Loans*
2 *to Officers and Employees of Banks and Banking Depart-*

3 *ment; Valuation of Securities.* The total liabilities to any
4 banking institution of any person, firm or corporation, for
5 money borrowed by note, bond, certificate of indebtedness or
6 other device, including in the liabilities of the firm the lia-
7 bilities of the several members thereof, including in the lia-
8 bilities of any corporation an investment by such banking
9 institution in the stock of such corporation, shall at no time
10 exceed ten per cent of the unimpaired capital stock, including
11 debentures and surplus fund of such banking institution:
12 *Provided, however,* That such liabilities to a banking institu-
13 tion in excess of the maximum herein provided, outstanding
14 at the date this act takes effect, but not exceeding twenty per
15 cent of the unimpaired capital stock, including debentures
16 and surplus funds of such banking institution, may be re-
17 newed, refunded, or extended for periods expiring not later
18 than December thirty-one, one thousand nine hundred thirty-
19 eight, if the board of directors of such banking institution
20 shall have satisfied themselves that such extension, renewal,
21 or refunding is in the best interests of the bank, and that the
22 said debtor has made reasonable effort to reduce his obliga-
23 tion, these findings to be evidenced by resolution of the board

24 of directors spread upon the minute book of the bank; after
25 which time such limit shall be reduced so that it will not
26 exceed ten per cent of such unimpaired capital stock, debentures
27 and surplus fund of such banking institution. But
28 the discount of commercial or business paper actually
29 owned by the person, firm or corporation negotiating the
30 same shall not be considered as money borrowed within
31 the limitation of this section; and the obligations of
32 any person, firm or corporation, in the form of notes or
33 drafts secured by shipping documents, warehouse receipts
34 or other such documents transferring or securing titles covering
35 readily marketable, nonperishable staples when such
36 property is fully covered by insurance, if it is customary
36a to insure such staples, shall be considered money borrowed
36b within the meaning of this section, but shall be subject to
37 the exception that with respect thereto the limitation of ten
38 per cent of the unimpaired capital stock, including debentures
39 and surplus fund, to which reference has hereinbefore
40 been made, may be increased to twenty-five per cent
41 when the market value of such staples securing such obligations
42 is not at any time less than one hundred fifteen

43 per cent of the face amount of such obligations, and may
44 be increased up to fifty per cent of such unimpaired
45 capital stock, including debentures and surplus fund, with
46 a corresponding increase in market value of such staples
47 securing such obligation up to not less than one hundred
48 forty per cent of the face amount of such additional obli-
49 gation, but this exception shall not apply to obligations of
50 any one person, firm or corporation arising from the same
51 transaction or secured upon the identical staples for more
52 than ten months. This section shall not apply to the obli-
53 gations of the United States or general obligations of any
54 state or of political subdivisions thereof, bonds or obligations
55 issued under the authority of the West Virginia bridge com-
56 mission or the state road commission, commonly known as
57 bridge revenue bonds, or obligations issued under authority
58 of the federal farm loan act, as amended, or issued by the
59 Federal Home Loan Bank, or the Home Owners' Loan Cor-
60 poration. Neither shall this section apply to the obligations
61 of a corporation owning the building in which the banking
62 institution is located, when such banking institution has an
63 unimpaired capital and surplus of not less than one million

64 dollars, or when approved in writing by the commissioner of
65 banking. Nothing herein shall be construed to forbid the
66 sale upon credit of a bank building owned by a banking in-
67 stitution at the time this act takes effect.

68 Indebtedness to a banking institution in excess of the
69 maximum prescribed in this section, outstanding at the date
70 this act takes effect, shall not be renewed, refunded or other-
71 wise extended for a period longer than the limitation pro-
72 vided by this section. If such indebtedness has not been col-
73 lected on or before May first, one thousand nine hundred
74 thirty-nine, and if said institution is not then diligently and
75 to the satisfaction of the commissioner of banking of the state
76 of West Virginia proceeding to collect the same, the said
77 commissioner of banking may require the said banking in-
78 stitution to charge said indebtedness to profit and loss, or
79 he may make such other requirements of such institution
80 with respect to such indebtedness as he shall deem just under
81 the circumstances, and any officer of the bank who shall re-
82 fuse to comply with such order or direction of said commis-
83 sioner of banking shall be guilty of a misdemeanor and shall

84 be punishable under the provisions of section thirty-nine of
85 this article.

86 No officer, director, clerk, or other employee of any banking
87 institution nor the commissioner of banking nor any employee
88 of the department of banking shall borrow, directly or indi-
89 rectly, from a banking institution with which he is connected
90 or which is subject to his examination, any sum of money ex-
91 cept upon the written approval of a majority of the board of
92 directors or discount committee of such institution made part
93 of the permanent records of said institution or embodied in a
94 resolution adopted by a majority of such board of directors,
95 exclusive of the officer or employee to whom the loan is made.
96 If any officer, clerk, or other employee of any bank shall own
97 or control a majority of the stock of any corporation or have
98 a controlling interest in any partnership, a loan to such cor-
99 poration or partnership shall for the purpose of this section
100 constitute a loan to such officer, clerk, or other employee.

101 Securities purchased by a banking institution shall be
102 entered upon the books of the bank at actual cost, but may
103 be carried thereafter at market value. For the purpose of
104 calculating the undivided profits applicable to the payment

105 of dividends, securities shall not be estimated at a valuation
106 exceeding their present cost as determined by amortization;
107 that is, by deducting from the cost of a security purchased
108 at a premium, and charging to profit and loss a sum sufficient
109 to bring it to par at maturity.

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

Carl B. Galbraith

Chairman Senate Committee

Bob Baker

Chairman House Committee

Originated in the *House of Delegates*

Takes effect *from* passage.

Frank Jones

Clerk of the Senate

Geo. S. Hall

Clerk of the House of Delegates

Chas. E. Hoops

President of the Senate

James R. Thomas

Speaker House of Delegates

The within *Approved* this the *10th*

day of *March*, 1937.

Frank A. Johnson

Governor.

Filed in the office of the Secretary of State
of West Virginia **MAR 11 1937**
Wm. S. O'BRIEN,
Secretary of State