WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1937

ENROLLED

SENATE BILL No. 116

(By Mr._________________________)

PASSED ____________________________
March 12th, 1937

In Effect _______ from _______ Passage
An act to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, by amending and reenacting section sixty-three, article one, thereof, and by adding two new sections to article one thereof to be known as section sixty-three-a and section sixty-three-b, relating to consolidation and merger of corporations.

Be it enacted by the Legislature of West Virginia:

That section sixty-three, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted, and that said article one of said chapter...
thirty-one be amended by the addition of two new sections to be known as section sixty-three-a, and section sixty-three-b, all to read as follows:

Section 63. Any two or more corporations organized under the provisions of this chapter, or existing under the laws of this state, for the purpose of carrying on any kind of business, may consolidate or merge into a single corporation which may be any one of such constituent corporations or a new corporation to be formed by means of such consolidation or merger as shall be specified in the agreement hereinafter required. The directors, or a majority of them, of such corporations as desire to consolidate or merge, may enter into an agreement signed by them and under the corporate seals of the respective corporations, prescribing the terms and conditions of consolidation or merger, the mode of carrying the same into effect, and stating such other facts required or permitted by the provisions of this article to be set out in an agreement of incorporation, as can be stated in the case of a consolidation or merger, stated in such altered form as the circumstances of the case require, as well as the manner of converting the shares of each of the constituent corpora-
tions into shares of the consolidated or merged corporation,
with such other details and provisions as are deemed necessary.
Such agreement shall be submitted to the stockholders of
each constituent corporation, at a meeting thereof, called sepa-
rate for the purpose of taking the same into consideration;
of the time, place and object of which meeting due notice shall
be given by publication at least once a week for four succes-
sive weeks in one or more newspapers published in the county
wherein each such corporation either has its principal office
or conducts its business, and a copy of such notice shall be
mailed to the last known postoffice address of each stockhold-
er of each such corporation, at least twenty days prior to the
date of such meeting: Provided, however, That in the consoli-
dation or merger of banking institutions as defined in this
chapter, in the case of emergency, and upon the order of the
commissioner of banking, the meeting may be held upon at
least twelve hours' notice sent by mail or telegraph to the last
known postoffice address of each stockholder, and without
publication.
At any such stockholders meeting of any corporation said
agreement shall be considered and a vote by ballot, in person
40 or by proxy, taken for the adoption or rejection of the same,
41 each share entitling the holder thereof to one vote; and if the
42 votes of stockholders of each such corporation representing
43 two-thirds of the total number of shares of its capital stock then
44 issued and outstanding shall be for the adoption of such agree-
45 ment, then that fact shall be certified on such agreement by the
46 secretary of each such corporation, under the seal thereof;
47 and the agreement so adopted and certified shall be signed by
48 the president and secretary of each of such corporations under
49 the corporate seals thereof and acknowledged by the president
50 of each of such corporations before any officer authorized by
51 the laws of this state to take acknowledgments of deeds to be
52 the respective act, deed and agreement of each of such corpo-
53 rations, and the agreement so certified and acknowledged shall
54 be filed in the office of the secretary of state, and shall thence
55 be taken and deemed to be the agreement and act of consolida-
56 tion or merger of the said corporations; and a copy of such
57 agreement and act of consolidation or merger, duly certified
58 by the secretary of state under the seal of his office, shall also
59 be recorded in the offices of the clerks of the county courts of
60 the counties of this state in which the respective corporations
so consolidating or merging shall have their original certi-
icate of incorporation recorded, if any, or if any of the cor-
porations shall have been specially created by a public act of
the legislature, then such agreement shall be recorded in the
county where such corporation shall have had its principal
place of business, if any, and such record, or a certified
copy thereof, shall be evidence of the agreement and act
of consolidation or merger of such corporations, and of the
observance and performance of all acts and conditions
necessary to have been observed and performed precedent
to such consolidation or merger.

When an agreement shall have been signed, acknowledged,
filed and recorded as herein required, for all purposes of
the laws of this state the separate existence of all the con-
stituent corporations, parties to said agreement, or of all
such constituent corporations except the one into which the
other or others of such constituent corporations have been
merged, or consolidated, as the case may be, shall cease
and the constituent corporations shall become a new corpo-
ration, or be merged into one of such corporations, as the
case may be, in accordance with the provisions of said
agreement, possessing all the rights, privileges, powers, franchises and trust and fiduciary duties, powers and obligations, as well of a public as of a private nature, and being subject to all the restrictions, disabilities and duties of each of such corporations so consolidated or merged, and all and singular the rights, privileges, powers, franchises, and trust and fiduciary rights, powers, duties and obligations, of each of said corporations; and all property, real, personal and mixed, and all debts due to any of said constituent corporations on whatever account, as well for stock subscriptions as all other things in action or belonging to each of such corporations shall be vested in the corporation resulting from or surviving such consolidation or merger; and all property, rights, privileges, powers, and franchises, and all and every other interest shall be thereafter as effectually the property of the resulting or surviving corporation as they were of the several and respective constituent corporations; and the title to any real estate, whether vested by deed or otherwise, under the laws of this state, vested in any of such constituent corporations, shall not revert or be in any way impaired by reason of this chapter: Pro-
vided, however, That all rights of creditors and all liens
upon any property of any of said constituent corporations
shall be preserved unimpaired, and all debts, liabilities and
duties of the respective constituent corporations shall thence-
forth attach to said resulting or surviving corporation, and
may be enforced against it to the same extent as if said
debts, liabilities and duties had been incurred or contracted
by it.

Sec. 63-a. Any corporation authorized by section sixty-
three of this article to merge or consolidate with another
corporation may merge or consolidate in the manner therein
provided with a corporation, or corporations organized and
existing under the laws of this state, of another state or
states, or of the United States, and authorized to merge
or consolidate with such corporation so authorized by said
section to merge or consolidate. In the agreement of
merger or consolidation the laws of any state under which
one of the constituent corporations was organized may be
selected as the laws which shall govern the merged or con-
solidated corporation.

Wherever the laws of another state than West Virginia
are selected as the laws which shall govern the merged or
consolidated corporation, such surviving corporation shall
comply with the provisions of section seventy-nine, article
one, of chapter thirty-one of the code of West Virginia,
one thousand nine hundred thirty-one, before it holds prop-
erty or transacts business in this state, and shall comply
with the laws of this state with respect to foreign corpo-
ations holding property or transacting business in this
state.

Sec. 63-b. In any merger or consolidation of corporations
under the laws of the state of West Virginia, any constituent
corporation thereof owning or holding real estate in West Vir-
ginia shall further evidence the title thereto in the surviving
corporation by executing and acknowledging for record a con-
firmatory deed or deeds to the respective parcels of real estate,
which deed or deeds shall be recorded in the office of the clerks
of the county courts of the respective counties in which such
real estate is situate; and such deed or deeds shall recite as
the consideration therefor the said merger or consolidation
and shall be deemed confirmatory of the title of such real
estate in the surviving merged or consolidated corporation.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the

Takes effect

passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within this the
day of 1937.

Governor

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.

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

Wm. S. O'BRIEN,
Secretary of State
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 prescribed by the constitution of the state, has become a law without his approval.

This the _______ day of _______.

1937

[Signature]

SECRETARY OF STATE