

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1941

ENROLLED

SENATE BILL No. 106

(By Mr.)

PASSED.....1941

In Effect.....Passage



ENROLLED

Senate Bill No. 106

(BY MR. PAULL, BY REQUEST)

[Passed March 8, 1941; in effect ninety days from passage.]

AN ACT to amend chapter thirty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, by adding thereto a new article, to be designated article three, providing for registration and sale of face-amount certificates, by whom such certificates may be sold, and penalties for the violations hereof, and to repeal article nine, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, be repealed; and that chapter thirty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended by adding thereto a new article, to be designated article three, to read as follows:

Section 1. *Definitions.* For the purposes of this article

2 the term "face-amount certificate" shall mean any certifi-

3 cate, investment contract, or other security which repre-

4 sents an obligation on the part of its issuer to pay a stated

5 or determinable sum or sums at a fixed or determinable

6 date or dates more than twenty-four months after the

7 date of issuance in consideration of the payment of peri-

8 odic installments of a stated or determinable amount; or

9 any security which represents a similar obligation on the

10 part of its issuer, the consideration for which is the pay-

11 ment of a single lump sum.

12 All other terms used herein shall have their respective
13 meanings as provided in section two, article one of this
14 chapter.

Sec. 2. *When Certificates Exempt from Registration.*

2 Face-amount certificates issued by a person licensed and
3 supervised by the insurance commissioner of this state
4 shall be exempt from registration under the provisions of
5 this article.

Sec. 3. *Restriction on Sale.* No face-amount certi-
2 cates, except those exempt under the provisions of sec-
3 tion two hereof, shall be sold within this state unless
4 such face-amount securities shall have been registered as
5 hereinafter provided.

Sec. 4. *When Certificates to be Registered.* Face-
2 amount certificates shall be registered hereunder by the
3 filing of an application with the commissioner by the
4 issuer or by any dealer properly registered under the pro-
5 visions of section twelve, article one of this chapter: *Pro-*
6 *vided,* The issuer of such certificates is registered under
7 the provisions of an act of Congress entitled "Investment
8 Company Act of 1940". Such application is to be in the

9 form prescribed by the commissioner. With each such
10 application there shall be filed a certified copy of the
11 registration statement which was filed by the issuer of
12 such certificates with the Securities and Exchange Com-
13 mission pursuant to the provisions of section eight of the
14 said "Investment Company Act of 1940".

15 The commissioner may require that the applicant file
16 with him such additional data and information respecting
17 the issuer as he shall deem necessary and pertinent to
18 registration hereunder.

19 The commissioner shall have power and authority to
20 place such conditions, limitations and restrictions on any
21 registration as may be necessary to carry out the pur-
22 poses of this article.

Sec. 5. *Fees for Registration.* At the time of filing
2 the application mentioned in section four of this article,
3 the applicant shall pay to the commissioner a fee of one
4 twentieth of one per cent of the aggregate face-amount
5 of the certificates to be sold in this state for which the
6 applicant is seeking registration, but in no case shall such

7 fee be less than twenty-five dollars, nor more than three
8 hundred dollars.

Sec. 6. *Expiration of Registration; Reregistration.*

2 Every registration under this article shall expire on the
3 thirtieth day of June in each year. New registrations for
4 the succeeding year shall be issued upon written appli-
5 cation, the applicant furnishing the commissioner, upon
6 request, information as hereinbefore provided, and paying
7 the commissioner a fee on the basis specified in section
8 five of this article on the aggregate face-amount of the
9 certificates to be sold in this state within the year to be
10 authorized by registration. Applications for renewal reg-
11 istration must be made not less than thirty days before
12 the first day of the ensuing registration year, otherwise
13 they shall be treated as original applications.

Sec. 7. *What Issuers to be Registered; Recordation of*

2 *Power of Attorney; Service and Acceptance of Process.*

3 When any issuer of face-amount certificates shall not be
4 domiciled in this state, he shall file with every appli-
5 cation for registration hereunder (whether such appli-
6 cation be made by the issuer in person or by or through a

7 registered dealer) his irrevocable written appointment of
8 the state auditor, or his successor in office, to be his true
9 and lawful attorney in fact, who may accept, or upon
10 whom may be served any lawful process or pleading in
11 any action or proceeding against him, in any court of
12 record in this state, and such filing shall constitute his
13 consent that any such process or pleading against him
14 which is properly served upon the state auditor or is
15 accepted by the state auditor, shall be of the same legal
16 force and validity as process or pleading duly served upon
17 said issuer in this state. In case any process or pleading
18 is served upon the state auditor, or accepted by him, such
19 service shall be made in duplicate, one copy of which
20 shall be filed in the office of the state auditor and the
21 other immediately forwarded by registered mail to the
22 principal office of the issuer against whom such process
23 or pleading is directed.

Sec. 8. Sales to be Made by Registered Dealers. Face-

2 amount certificates shall be offered for sale and sold in this
3 state only by dealers and salesmen registered with the

4 commissioner under the provisions of section twelve,
5 article one of this chapter.

Sec. 9. *Violations; Penalties.* Any person subject to
2 the provisions of this article, who shall sell or offer for
3 sale any face-amount certificates within this state without
4 complying with the provisions of this article, or who
5 continues to sell or offer for sale any such certificates
6 after his registration has expired, or has been revoked
7 or suspended by the commissioner, or who shall other-
8 wise neglect or refuse to comply with any of the pro-
9 visions of this article, shall be guilty of a felony, and upon
10 conviction thereof, shall be punished by a fine of not more
11 than five thousand dollars, or by imprisonment in the
12 penitentiary for not more than five years, or by both such
13 fine and imprisonment, in the discretion of the court.

Sec. 10. *Applicability of Sections.* Sections three, four,
2 six, nine, and twenty-seven of article one of this chapter
3 shall not apply to this article. All other sections of this
4 chapter shall apply fully to this article.

Sec. 11. *Separability of Sections.* If any part or sec-
2 tion of this act shall be declared unconstitutional or in-

3 valid by any court, such declaration shall not affect any
4 other part or section hereof.

Sec. 12. *Article Nine, Chapter Thirty-three Repealed.*

2 Article nine, chapter thirty-three of the code of West
3 Virginia, one thousand nine hundred thirty-one, is hereby
4 expressly repealed.

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

E. H. McKeown
Chairman Senate Committee

Leon Rice
Chairman House Committee

Originated in the Senate

Takes effect ninety days from passage

Oslee Watkins
Clerk of the Senate

J. R. Allen
Clerk of the House of Delegates

Byron B. Randolph
President of the Senate

Malcolm R. Arnold
Speaker House of Delegates

The within approved this the 14
day of March, 1941.

Matthew M. Neely
Governor.

Filed in the office of the Secretary of State
at West Virginia. MAR 17 1941
Wm. S. O'BRIEN,
Secretary of State