WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1943

ENROLLED

HOUSE BILL No. 173

(By Mr. Molina, by request.)

PASSED March 1, 1943

In Effect from Passage
ENROLLED

House Bill No. 173

(BY MR. MOLER, by request)

[Passed March 1, 1943: in effect from passage.]

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section nine, article four, relating to the inhibition against branch banks, the inhibition of a banking institution to sign indemnity contracts or pledge its assets to indemnify a surety, and exceptions as to the guarantee by a banking institution of federal deposits and deposits of state and divisions thereof; section twenty, article four, relating to interest allowed to a banking institution in certain cases; section seven, article eight, relating to examination of the books, accounts and records of a banking institution by the commissioner of banking and the communications from such commissioner; section fifteen, article eight, relating to the annual
meeting of the stockholders of a banking institution, statement of the financial condition of the institution to such stockholders, and the appointment by such stockholders of an examining committee and the duties of such committee; section eighteen, article eight, relating to limitation of loans by a banking institution, the authorization of loans to officers and employees of a bank and banking department and the valuation of securities; all relating to banking institutions.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting sections nine and twenty, article four, and sections seven, fifteen and eighteen, article eight, all to read as follows:


Section 9. Branch Banks Forbidden; Bank Not to Sign 2 Indemnity Contract or Pledge Its Assets to Indemnify a Surety; Exception as to Guarantee of Federal Deposits, 3 Deposits of State and Division thereof, and Deposits of a Bankrupt's Estate Made Pursuant to an Order of a Court 4
of Bankruptcy.—No banking institution chartered and
authorized to engage in business under the laws of this
State, shall hereafter install or maintain any branch bank,
or engage in business at any place other than at its prin-
cipal office in the State of West Virginia; or engage in
any business other than as authorized in this article. No
banking institution shall become or be accepted as surety
on any bond or undertaking required by the laws or
by the courts of this state, or any other state, or shall
become surety or guarantor of any person for the
discharge of any duty in any position or the perform-
ance of any contract or undertaking. No banking in-
stitution shall pledge, hypothecate or deliver any of its
assets of any description whatsoever to any person to
indemnify him as surety for such banking institution
or as surety for any other person: Provided, That a
bank or trust company may pledge, hypothecate, de-
liver or deposit securities to guarantee deposits of the
United States, its agencies, state of West Virginia, a
county, district, school district or a municipal corpora-
tion, and the deposits of a bankrupt's estate made pur-
suitant to an order of a court of bankruptcy, and, with the consent in writing of the commissioner of banking, may pledge, hypothecate, deliver or deposit securities and/or assets to guarantee deposits made by receivers of closed and/or insolvent banking institutions, and the receiver of a closed and/or insolvent banking institution, if the proceeding be not in court, with the consent in writing of the commissioner of banking, and if the proceeding be in court, with the consent in writing of the commissioner of banking and the approval of the court, may accept securities and/or assets of a banking institution to secure deposits made by such receiver: Provided further, That the hypothecation of such securities and/or assets shall be by proper legal transfer as collateral security to protect and indemnify by trust any and all loss in case of any default on the part of the banking institution in its capacity as a depository for any such deposits as aforesaid, and such collateral security shall be released only by order of record of the public officer or public body, or by the receiver of a closed and/or insolvent banking institu-
tion, if the proceeding be not in court, with the consent in writing of the commissioner of banking, and if the proceeding be in court, with the consent in writing of the commissioner of banking and the approval of the court, when satisfied that full and faithful accounting and payment of all the moneys has been made under the provisions hereof. The public officer or public body, or the receiver of a closed and/or insolvent banking institution, shall make ample provision for the safekeeping of such hypothecated securities and/or assets, and the interest thereon when paid shall be turned over to the banking institution, so long as it is not in default as aforesaid.

The foregoing shall not prevent the hypothecation of the securities and/or assets of any banking institution to secure the repayment of money, borrowed from another banking institution.

Sec. 20. Interest Allowed in Certain Cases.—In addition to the interest rate provided in the article dealing with money and interest in chapter forty-seven of this code, a banking institution may charge and collect a
5. reasonable amount to cover the expenses incurred in
6 procuring reports and information respecting loans and
7 the value of and title to property offered as security
8 therefor, and a charge of one dollar may be made for
9 any loan or forbearance of money or other thing where
10 the interest at the rate of six per cent per annum
11 would not amount to that sum, and the same shall not
12 be a usurious charge or rate of interest. Any banking
13 institution authorized to do, and doing business in this
14 state may contract for and charge for a secured or un-
15 secured loan, repayable in installments, not in excess of
16 six per cent per annum upon the face amount of the
17 instrument or instrument evidencing the obligation to
18 repay the loan, for the entire period of the loan, and
19 deduct such charge in advance: Provided, however, That
20 if the entire unpaid balance outstanding on the loan is
21 paid on any installment date, prior to maturity, the bank
22 shall make a refund or rebate of such charge in an amount
23 computed on the aggregate installments not due, at the
24 original contract rate of charge, prorated to the period of
25 the loan covered by such unmatured installments; and
any note evidencing any such installment loan may pro-
vide that the entire unpaid balance thereof at the option
of the holder shall become due and payable upon default
in the payment of any stipulated installment without im-
pairing the negotiability of such note, if otherwise nego-
tiable.

Article 8. Business Operations and Supervision of Banking
Institutions, Industrial Loan Companies and Building and
Loan Associations.

Section 7. Examination of Books, Accounts and Records;
Communications from Banking Commissioner.—The com-
missoner of banking shall make, or cause to be made,
at least once each calendar year, a thorough examina-
tion of all the books, accounts, records and papers of
every banking institution, industrial loan company and
building and loan association, except national banking
associations organized under the acts of congress, en-
gaged in business in the state of West Virginia. He shall
carefully examine all of the assets of the corporation,
including its notes, drafts, checks, mortgages, securities
deposited to assure the payment of debts unto it, and
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13 all papers, documents and records showing, or in any
manner relating to, its business affairs, and shall ascer-
tain the full amount and the nature in detail of all of
its liabilities. A full report of every such examination
shall be made and filed and preserved in the office of
the department of banking.

19 For the purpose of facilitating such examination, every
corporation subject to supervision shall preserve and
keep all of its records of final entry, including cards
used under the card system, and deposit tickets for de-
posits made, for a period of at least six years from the
date of the last entry on such books and the date of
the making of such deposit tickets, and card records.

26 Every official communication from the office of the
department of banking to any corporation or any offi-
er of such corporation subject to the supervision of
said department, relating to an examination or an in-
vestigation of the affairs of such institution conducted
by the department of banking and supervision or con-
taining suggestions or recommendations as to the man-
ner of conducting the business of the corporation, shall
be submitted and read to the board of directors at the
next meeting after the receipt thereof, and the presi-
dent, or other executive officer, of the corporation shall
report in writing forthwith to the commissioner of bank-
ing the fact of the presentation and reading of such
report, and communicate any action taken thereon by
the corporation.

Sec. 15. Annual Meeting; Examining Committee; Ap-
pointment; Failure to Act.—The stockholders of each
banking institution shall meet annually and at such
annual meeting it shall be the duty of the cashier or other
executive officer of such banking institution to prepare
and submit to the stockholders a clear and concise state-
ment of the financial condition of the corporation as
of the close of business on the last day of the month next
preceding. At such meeting the stockholders shall ap-
point an examining committee, whose duty it shall be
to examine the condition of the bank at least once dur-
ing each calendar year. The examining committee shall
report to the board of directors, giving in detail all
items included in assets of the bank which they have
reason to believe are not of the value at which they appear on the books and records of the bank, and giving the value of each of such items according to their judgment. Should such committee deem it advisable, it may, with the consent and approval of the board of directors, employ competent accountants or auditors to make such examination or make same in conjunction with the regular examination of the banking department. The examiners may require the presence of the examining committee or the executive committee during their examination. The board shall cause such report to be recorded in the minute books of the bank, and a duly authenticated copy thereof transmitted to the commissioner of banking.

Sec. 18. Limitation on Loans; Authorization of Loans to Officers and Employees of Banks and Banking Department; Valuation of Securities.—The total liabilities to any banking institution of any persons, firm or corporation, for money borrowed by note, bond, certificate of indebtedness or other device, including, in the liabilities of the firm the liabilities of the several members
thereof, including in the liabilities of any corporation an investment by such banking institution in the stock of such corporation, shall at no time exceed ten per cent of the unimpaired capital stock, including debentures and surplus fund of such banking institution. But the discount of commercial or business paper actually owned by the person, firm or corporation negotiating the same shall not be considered as money borrowed within the limitation of this section; and the obligations of any person, firm or corporation, in the form of notes or drafts secured by shipping documents, warehouse receipts or other such documents transferring or securing titles covering readily marketable, nonperishable staples when such property is fully covered by insurance, if it is customary to insure such staples, shall be considered money borrowed within the meaning of this section, but shall be subject to the exception that with respect thereto the limitation of ten per cent of the unimpaired capital stock, including debentures and surplus fund, to which reference has hereinbefore been made, may be increased to twenty-five per cent when the market
value of such staples securing such obligations is not at any time less than one hundred fifteen per cent of the face amount of such obligations, and may be increased up to fifty per cent of such unimpaired capital stock, including debentures and surplus fund, with a corresponding increase in market value of such staples securing such obligation up to not less than one hundred forty per cent of the face amount of such additional obligation, but this exception shall not apply to obligations of any one person, firm or corporation arising from the same transaction or secured upon the identical staples for more than ten months. This section shall not apply to the obligations of the United States or general obligations of any state or political subdivision thereof (when there has been no default in the payment of interest or principal in respect of the general obligations of any state or political subdivision thereof within ten years prior to the purchase of such obligations), bonds or obligations issued under the authority of the West Virginia bridge commission or the state road commission, commonly known
as bridge revenue bonds, or obligations issued under authority of the federal farm loan act, as amended, or issued by the federal home loan bank, or the home owners' loan corporation, or any loans or obligations to the extent that they are secured or covered by guarantees, or by commitments or agreements to take over or to purchase the same, made by any federal reserve bank or by the United States or any department, board, bureau, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States. Neither shall this section apply to the obligations of a corporation owning the building in which the banking institution is located, when such banking institution has an unimpaired capital and surplus of not less than one million dollars, or when approved in writing by the commissioner of banking. Nothing herein shall be construed to forbid the sale upon credit of a bank building owned by a banking institution at the time this act takes effect.

No officer, director, clerk or other employee of any banking institution or the commissioner of banking or
any employee of the department of banking shall bor-
row, directly or indirectly, from the banking institution
with which he is connected, or is subject to his examina-
tion, any sum of money without the written approval
of a majority of the board of directors or discount com-
mittee thereof filed in its office, or embodied in a reso-
lution adopted by a majority vote of such board, exclu-
sive of the director to whom the loan is made. If an of-
ecer, clerk or other employee of any bank shall own or
control a majority of the stock of any other corporation,
a loan to such corporation shall, for the purpose of this
section, constitute a loan to such officer, clerk or other
employee.
Securities purchased by a banking institution shall be
entered upon the books of the bank at actual cost, but
may be carried thereafter at market value. For the
purpose of calculating the undivided profits applicable to
the payment of dividends, securities shall not be esti-
mated at a valuation exceeding their present cost as
determined by amortization; that is, by deducting from
the cost of a security purchased at a premium, and charg-
ing to profit and loss a sum sufficient to bring it to par at
maturity.

All acts or parts of acts in conflict with the provisions
of this act are hereby repealed.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Ray J. Fucini
Chairman Senate Committee

Uncle B. Robb
Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

Arthur Watkins
Clerk of the Senate

J. A. H. Glass
Clerk of the House of Delegates

James Paine
President of the Senate

John E. Ayres
Speaker House of Delegates

The within approved this the 11 day of March, 1943.

Matthew Neely
Governor.

Filed in the office of the Secretary of State of West Virginia MAR 11 1943

Wm. S. O'Brien, Secretary of State