

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 373

(By Mr. Marlin)

PASSED Mar 9 1955

In Effect 90 Days for Passage

Filed in the Office of the Secretary of State
of West Virginia. MAR 17 1955
D. PITT O'BRIEN
SECRETARY OF STATE

ENROLLED
House Bill No. 373

(By MR. WHITE)

[Passed March 9, 1955; in effect ninety days from passage.]

AN ACT to amend and reenact section thirteen, article four-a, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the return of an item by a bank legally closed for business.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article four-a, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 13. *Return of Item by Bank Legally Closed*
2 *for Business; When Item Preferred Claim on Assets of*
3 *Drawee or Payor, or Agent Collecting Bank Failed or*
4 *Closed for Business.*—First: When the drawee or payor,
5 or any other agent collecting bank shall fail or be closed
6 for business by the commissioner of banking or comp-
7 troller of the currency or by action of the board of di-

8 rectors or by other proper legal action, after an item
9 shall be mailed or otherwise entrusted to it for collection
10 or payment but before the actual collection or payment
11 thereof, it shall be the duty of the receiver or other official
12 in charge of its assets to return such item, if same is in
13 his possession, to the forwarding or presenting bank with
14 reasonable diligence;

15. Second: Except in cases where an item or items is treated
16 as dishonored by nonpayment as provided in section
17 eleven, when a drawee or payor bank has presented to
18 it for payment an item or items drawn upon or payable
19 by or at such bank and at the same time has on deposit to
20 the credit of the maker or drawer an amount equal to such
21 item or items and such drawee or payor shall fail or close
22 for business as above, after having charged such item or
23 items to the account of the maker or drawer thereof
24 or otherwise discharged his liability thereon but with-
25 out such item or items having been paid or settled for
26 by the drawee or payor either in money or by an uncon-
27 ditional credit given on its books or on the books of any
28 other bank which has been requested or accepted so as

29 to constitute such drawee or payor or other bank debtor
30 therefor, the assets of such drawee or payor shall be
31 impressed with a trust in favor of the owner or owners
32 of such item or items for the amount thereof, or for the
33 balance payable upon a number of items which have been
34 exchanged, and such owner or owners shall be entitled
35 to a preferred claim upon such assets, irrespective of
36 whether the fund representing such item or items can
37 be traced and identified as part of such assets or has
38 been intermingled with or converted into other assets
39 of such failed bank;

40 Third: Where an agent collecting bank other than
41 the drawee or payor shall fail or be closed for business
42 as above, after having received in any form the pro-
43 ceeds of an item or items entrusted to it for collection,
44 but without such item or items having been paid or re-
45 mitted for by it either in money or by an unconditional
46 credit given on its books or on the books of any other
47 bank which has been requested or accepted so as to con-
48 stitute such failed collecting or other bank debtor there-
49 for, the assets of such agent collecting bank which has

50 failed or been closed for business as above shall be im-
51 pressed with a trust in favor of the owner or owners of
52 such item or items for the amount of such proceeds and
53 such owner or owners shall be entitled to a preferred
54 claim upon such assets, irrespective of whether the fund
55 representing such item or items can be traced and iden-
56 tified as part of such assets or has been intermingled
57 with or converted into other assets of such failed bank.

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

[Signature]
Chairman Senate Committee

W. T. Brotherton, Jr.
Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 16
day of March, 1953.

[Signature]
Governor



Filed in the Office of the Secretary of State

MAR 17 1953
D. BERT O'BRIEN
SECRETARY OF STATE