WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 373

(By Mr. __________)

PASSED Mar. 9, 1955

In Effect 90 Days after Passage

Filed in the Office of the Secretary of State
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 for Business; When Item Preferred Claim on Assets of Drawee or Payor, or Agent Collecting Bank Failed or Closed for Business.—First: When the drawee or payor, or any other agent collecting bank shall fail or be closed for business by the commissioner of banking or comptroller of the currency or by action of the board of di-
rectors or by other proper legal action, after an item shall be mailed or otherwise entrusted to it for collection or payment but before the actual collection or payment thereof, it shall be the duty of the receiver or other official in charge of its assets to return such item, if same is in his possession, to the forwarding or presenting bank with reasonable diligence;

Second: Except in cases where an item or items is treated as dishonored by nonpayment as provided in section eleven, when a drawee or payor bank has presented to it for payment an item or items drawn upon or payable by or at such bank and at the same time has on deposit to the credit of the maker or drawer an amount equal to such item or items and such drawee or payor shall fail or close for business as above, after having charged such item or items to the account of the maker or drawer thereof or otherwise discharged his liability thereon but without such item or items having been paid or settled for by the drawee or payor either in money or by an unconditional credit given on its books or on the books of any other bank which has been requested or accepted so as
to constitute such drawee or payor or other bank debtor therefor, the assets of such drawee or payor shall be impressed with a trust in favor of the owner or owners of such item or items for the amount thereof, or for the balance payable upon a number of items which have been exchanged, and such owner or owners shall be entitled to a preferred claim upon such assets, irrespective of whether the fund representing such item or items can be traced and identified as part of such assets or has been intermingled with or converted into other assets of such failed bank;

Third: Where an agent collecting bank other than the drawee or payor shall fail or be closed for business as above, after having received in any form the proceeds of an item or items entrusted to it for collection, but without such item or items having been paid or remitted for by it either in money or by an unconditional credit given on its books or on the books of any other bank which has been requested or accepted so as to constitute such failed collecting or other bank debtor therefore, the assets of such agent collecting bank which has
failed or been closed for business as above shall be im-
pressed with a trust in favor of the owner or owners of
such item or items for the amount of such proceeds and
such owner or owners shall be entitled to a preferred
claim upon such assets, irrespective of whether the fund
representing such item or items can be traced and iden-
tified as part of such assets or has been intermingled
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.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor

[Signature]

Certificate of the Secretary of State