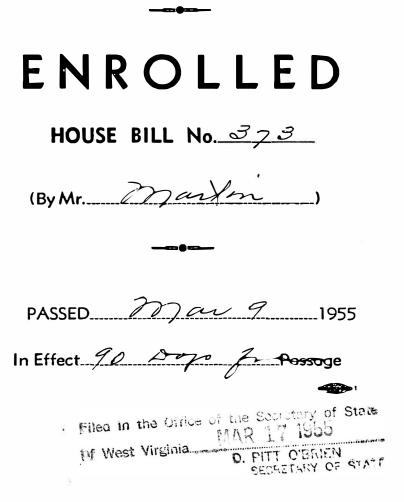
WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1955



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 thirtyone, 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 diEnr. H. B. No. 373]

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 eleven, when a drawee or payor bank has presented to 17 it for payment an item or items drawn upon or payable 18 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 for business as above, after having charged such item or 22 items to the account of the maker or drawer thereof 23 or otherwise discharged his liability thereon but with-24 out such item or items having been paid or settled for 25 by the drawee or payor either in money or by an uncon-26 ditional credit given on its books or on the books of any 27 28 other bank which has been requested or accepted so as

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to constitute such drawee or payor or other bank debtor 29 therefor, the assets of such drawee or payor shall be 30 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 whether the fund representing such item or items can 36 be traced and identified as part of such assets or has 37 been intermingled with or converted into other assets 38 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 as above, after having received in any form the pro-42 ceeds of an item or items entrusted to it for collection, 43 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 constitute such failed collecting or other bank debtor there-48 for, the assets of such agent collecting bank which has 49

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

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

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Chairman Senate Committee Chairman House Committe

Originated in the House of Delegates

Takes effect. 90 200 pm passage.
Clerk of the Senate
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