WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1963

ENROLLED

HOUSE BILL No. 163

(By Mr. Ford)

PASSED Feb. 23, 1963

In Effect 90 days from Passage

Filed in Office of the Secretary of State of West Virginia MAR 4, 1963
JOE F. BURDETT
SECRETARY OF STATE
AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article four-e, 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 adding thereto a new article, designated article four-e, to read as follows:

Article 4-e. Bank Service Corporations and Bank Services.

Section 1. Definitions.—“Bank services” shall be construed to mean services such as check and deposit sorting
and posting, computation and posting of interest and
other credits and charges, preparation and mailing of
checks, statements, notices and similar items, or any
other clerical, bookkeeping, accounting, statistical, or
similar functions performed for a banking institution
or a national banking association. "Bank service corpora-
tion" shall be construed to mean a corporation organized
under the laws of this state to perform bank services
for two or more banking institutions chartered under
this chapter and authorized to do business in this state
(hereinafter referred to in this article as "banking institu-
tions"), or one or more such institutions and one or more
national banking associations, each of which owns part
of the capital stock of such corporation. "Invest" shall
be construed to mean any advance of funds to a bank
service corporation, whether by the purchase of stock,
the making of a loan, or otherwise, except the payment
for rent earned, goods sold and delivered, or services
rendered prior to the making of such payment.

Sec. 2. Investment in Bank Service Corporations

Authorized.—Notwithstanding any other provision of
law, any banking institution is hereby authorized to invest not more than ten per cent of its paid-in and unimpaired capital and unimpaired surplus in a bank service corporation. If stock in a bank service corporation has been held by two banking institutions, or by one such institution and one national banking association and one banking institution or such association ceases to utilize the services of the corporation and ceases to hold stock in it, and leaves a banking institution as the sole stockholder, the bank service corporation may nevertheless continue to function as such and such banking institution may continue to hold stock in such corporation.

Sec. 3. Extension of Bank Services to Other Banking Institutions and National Banking Associations.—Whenever a banking institution or a national banking association applies for bank services for itself (hereinafter referred to in this section as “an applying bank”) from a bank service corporation which supplies the same type of bank services to one or more other banking institutions or national banking associations, or both, and the applying bank is competitive with any banking institution
or national banking association which holds stock in such corporation (referred to in this section as a "stock-holding bank"), the corporation must offer to supply such services by either:

(a) Issuing stock to the applying bank and furnishing banking services to it on the same basis as to the stock-holding banks, or

(b) Furnishing bank services to the applying bank at rates no higher than necessary to reflect fairly the cost of such services, including the reasonable cost of the capital provided to the corporation by the stockholding banks, at the corporation's option, unless comparable services at competitive overall costs are available to the applying bank from another source, or unless the furnishing of the services sought by the applying bank would be beyond the practical capacity of the bank service corporation. In any action or proceeding to enforce the duty imposed by this section or for damages for the breach thereof, the burden shall be upon the bank service corporation to show such availability.
Sec. 4. Limitation on Activities of Bank Service Corporations. — No bank service corporation may engage in any activity other than the performance of bank services for banking institutions or national banking associations, or both.

Sec. 5. Regulation and Examination of Parties Performing Bank Services. — No banking institution chartered under this chapter and authorized to do business in this state may cause to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises, unless written assurances satisfactory to the commissioner of banking are furnished to him by both the banking institution and the party performing such services that the performance thereof will be subject to regulation and examination by the department of banking and any federal supervisory agency to the same extent as if such services were being performed by the banking institution on its own premises.
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.

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 2nd day of March, 1963.

Governor

Filed in Office of the Secretary of State

of West Virginia

JOE F. BURDETT
SECRETARY OF STATE