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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1971

ENROLLED

SENATE BILL NO. 412

(By Mr. CARRIGAN)

PASSED MARCH 2, 1971

In Effect FROM Passage



412

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-10-71

ENROLLED

Senate Bill No. 412

(By MR. CARRIGAN)

[Passed March 2, 1971; in effect from passage.]

AN ACT to amend and reenact section six, article ten, chapter thirty-one; and sections six and eight, article two, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to supervision by and reports to commissioner of banking, examinations, fees, penalty for failure to report, revocation of certificates of approval, commissioner's examinations of financial institution, reports, records, communications from commissioner to institution, examination by federal agency in lieu of commissioner's examination, fees, costs and expenses of examinations, and collection.

Be it enacted by the Legislature of West Virginia:

That section six, article ten, chapter thirty-one; and sections six and eight, article two, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

CHAPTER 31. CORPORATIONS.

ARTICLE 10. CREDIT UNIONS.

§31-10-6. Supervision by and reports to commissioner of banking; examinations; fees; penalty for failure to report; revocation of certificates of approval.

1 Credit unions shall be under the supervision of the
2 commissioner of banking. They shall report to him at
3 least semiannually on or before the first day of January
4 and the first day of July of each calendar year, on blanks
5 supplied by the said commissioner for that purpose. Ad-
6 ditional reports may be required by said commissioner.
7 Credit unions shall be examined annually by the com-
8 missioner of banking, except that, if a credit union has
9 assets of less than twenty-five thousand dollars, he may
10 accept the audit of a certified public accountant in place
11 of such examination. The fee for examination of credit
12 unions not subject to the above exception will be charged

13 on the basis of sixty-five dollars per day per examiner.
14 For failure to file reports when due, unless excused
15 for cause, the credit union shall pay to the treasurer of
16 the state five dollars for each day of its delinquency. If
17 the commissioner of banking determines that a credit
18 union is violating any provision of this article, or is in-
19 solvent, said commissioner may serve notice on such
20 credit union of his intention to revoke the certificate
21 of approval. If, for a period of fifteen days after such
22 notice, such violation continues, the commissioner of
23 banking may revoke such certificate and take possession
24 of the business and property of such credit union and
25 maintain possession until such time as he shall permit
26 it to continue business or its affairs are finally liquidated.
27 He may take similar action if such report remains in ar-
28 rears for more than fifteen days.

CHAPTER 31A. BANKS AND BANKING.

ARTICLE 2. DEPARTMENT OF BANKING.

**§31A-2-6. Commissioner's examinations of financial institution;
reports; records; communications from commis-**

sioner to institution; examination by federal
agency in lieu of commissioner's examination.

1 The commissioner of banking shall make, at least once
2 each calendar year, a thorough examination of all the
3 books, accounts, records and papers of every financial
4 institution. He shall carefully examine all of the assets
5 of each such institution, including its notes, drafts, checks,
6 mortgages, securities deposited to assure the payment
7 of debts unto it, and all papers, documents and records
8 showing, or in any manner relating to, its business affairs,
9 and shall ascertain the full amount and the nature in
10 detail of all of its assets and liabilities. The commissioner
11 may also make such examination of any subsidiaries or
12 affiliates of a financial institution as he may deem neces-
13 sary to ascertain the financial condition of such financial
14 institution, the relations between such financial institu-
15 tion and its subsidiaries and affiliates and the effect of
16 such relations upon the affairs of such financial institu-
17 tion. A full report of every such examination shall be
18 made and filed and preserved in the office of the com-
19 missioner and a copy thereof forthwith mailed to the

20 institution examined. Every such institution shall retain
21 all of its records of final entry for such period of time
22 as required in section thirty-five, article four of this
23 chapter for banking institutions.

24 Every official communication from the commissioner
25 to any such institution, or to any officer thereof, relating
26 to an examination or an investigation of the affairs of
27 such institution conducted by the commissioner or con-
28 taining suggestions or recommendations as to the manner
29 of conducting the business of the institution, shall be
30 read to the board of directors at the next meeting after
31 the receipt thereof, and the president, or other execu-
32 tive officer, of the institution shall forthwith notify the
33 commissioner in writing of the presentation and read-
34 ing of such communication and of any action taken there-
35 on by the institution.

36 The commissioner of banking, in his discretion, may (a)
37 accept a copy of a reasonably current examination of
38 any banking institution made by the federal deposit
39 insurance corporation or the federal reserve system in
40 lieu of an examination of such banking institution re-

41 quired or authorized to be made by the laws of this
42 state, and the commissioner may furnish to the federal
43 deposit insurance corporation or the federal reserve
44 system or to any official or examiner thereof, any copy
45 or copies of the commissioner's examinations of and re-
46 ports on such banking institutions (b) accept a copy of a
47 reasonable current examination of any building and loan
48 association made by the federal home loan bank board,
49 a federal home loan bank or the federal savings and loan
50 insurance corporation, in lieu of an examination of such
51 building and loan association required or authorized to
52 be made by the laws of this state, and the commis-
53 sioner may furnish to the federal home loan bank or
54 any of its member banks or to the federal savings and
55 loan insurance corporation or any official or examiner
56 thereof, any copy or copies of the commissioner's exami-
57 nation and reports on such building and loan associa-
58 tions; but nothing herein shall be construed to limit the
59 duty and responsibility of banking institutions or build-
60 ing and loan associations to comply with all provisions
61 of law relating to examinations and reports, nor to limit

62 the powers and authority of the commissioner of banking
63 with reference to examinations and reports under exist-
64 ing laws.

§31A-2-8. Fees, costs and expenses of examinations; collection.

1 (a) For making an examination within the state of
2 any state banking institution, the commissioner of bank-
3 ing shall charge and collect from such institution and pay
4 into the state treasury a fee of one hundred dollars upon
5 the first twenty-five thousand dollars of the assets as
6 shown by the books of the bank on the date of exami-
7 nation and six cents for each additional one thousand
8 dollars of such assets.

9 (b) For making such an examination within the state
10 of any other financial institution, the commissioner of
11 banking shall charge and collect from such other financial
12 institution and pay into the state treasury the actual and
13 necessary costs and expenses incurred in connection
14 therewith, as fixed and determined by the commissioner.

15 (c) If any such examination be made at a place outside
16 of this state, the fees, costs and expenses shall be as
17 above provided, except that there shall be an additional

18 charge for mileage and travel expense as provided and
19 allowed by law for state agencies and employees.

20 (d) The commissioner of banking may maintain an
21 action for the recovery of all such fees, costs and expenses
22 in any court of competent jurisdiction.

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

Richard G. Beane
Chairman Senate Committee

Phyllis R. Rutledge
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Thomas W. Myers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Elmer G. Fout
President of the Senate

Ivor F. Boiesby
Speaker House of Delegates

The within *approved* this the *9th*
day of *March*, 1971.

Arch A. Shaare Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/5/71

Time 1:38 p.m.