

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974



ENROLLED

HOUSE BILL No. 912

Originating in the Committee
(By Mr. *on the Judiciary*)



PASSED March 9 1974

In Effect From ~~10 days~~ Passage



FILED IN THE OFFICE
FRANK S. WICKELL III
SECRETARY OF STATE
THIS DATE 3-27-74

912

ENROLLED

H. B. 912

(Originating in the House Committee on the Judiciary)

[Passed March 9, 1974; in effect ~~January 1, 1975~~ from passage.]

AN ACT to amend and reenact article seven, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section two, article one, chapter thirty-one-a of said code; and to amend and reenact sections fourteen and twenty-two, article four of said chapter thirty-one-a, all relating to industrial banks and industrial loan companies generally; providing a short title and provisions relating to rules of construction of this act; the definition of certain terms used herein; applying certain provisions contained in said chapter thirty-one-a, including the penalty provisions contained therein, to the provisions contained in said article seven, chapter thirty-one; establishing the procedures for incorporating and chartering industrial banks and industrial loan companies; providing for the capital stock requirements of such corporations; providing for the voting rights of the holders of such stock; restricting the use of certain words in the corporate name of such corporations; the form and contents of application to organize an industrial bank; the examination and investigation by the West Virginia board of banking and financial institutions of any proposed industrial bank and the matters to be considered by such board with respect to such examination and investigation; the powers and duties of said board and the commissioner of banking of West Virginia with respect to said industrial banks and industrial loan companies generally; requiring industrial banks to secure federal deposit insurance and to notify their depositors upon termination of such insurance;

the rights of depositors upon the termination of such insurance; the powers of industrial banks and industrial loan companies and the limitation of such powers; the cash reserves required to be maintained by industrial banks and industrial loan companies and the form and nature of such reserves; the supervision and control of industrial loan companies by said commissioner and board and the power of each to regulate other firms, corporations, partnerships or associations owning more than forty percent of the stock of any such industrial loan company; the subrogation rights of the federal deposit insurance corporation in certain instances; annual and special meetings of stockholders of industrial banks and industrial loan companies and providing for the voting rights of such stockholders and quorum requirements at such meetings; providing for the number, duties, qualifications and oath of the directors and officers of industrial banks and industrial loan companies and the manner in which vacancies shall be filled; the bonding requirements for such directors, officers and the managers and employees of of any such industrial bank or industrial loan company and requirements with respect to the defalcation of any such bond; requiring that a list of stockholders be open for inspection at any such industrial bank and industrial loan company; establishing procedures for the declaring and paying of dividends by any such bank or company; the procedures for amending the charter or bylaws of any such bank or company; procedures for the dissolution of industrial loan companies; limiting loans to officers and employees of industrial loan companies in certain cases and providing for penalty for the violation of such provisions; requiring and prohibiting certain advertising practices by such banks or companies; restricting certain statements made by industrial loan companies with respect to the guaranteeing of payment of its evidences or certificates of indebtedness; prohibiting the use of certain symbols, seals, trademarks or devices by industrial loan companies; the rulemaking and regulatory functions of said commissioner and board and the procedures to be followed for the adoption and promulgation of such rules; the collection of certain fees, costs and expenses by the commissioner in certain cases; procedures for hearings by commissioner and board and providing for appeal and judicial review therefrom; and providing for the applicability of this act to certain existing companies.

Be it enacted by the Legislature of West Virginia:

That article seven, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section two, article one, chapter thirty-one-a of said code be amended and reenacted; and that sections fourteen and twenty-two, article four of said chapter thirty-one-a be amended and reenacted, all to read as follows:

CHAPTER 31. CORPORATIONS.

ARTICLE 7. INDUSTRIAL BANKS AND INDUSTRIAL LOAN COMPANIES.

§31-7-1. Short title.

1 This article shall be known and may be cited as the “West
2 Virginia Industrial Bank and Industrial Loan Company Act.”

§31-7-2. Construction of article; general corporation laws applicable.

1 (a) Except as otherwise specified herein the provisions
2 of chapter thirty-one-a of this code, insofar as the same relates
3 to the inspection, examination, supervision, regulation and
4 control of banking institutions, including but not limited
5 to all of the penalty provisions contained in said chapter
6 thirty-one-a, shall apply to industrial banks and industrial
7 loan companies organized pursuant to this article to the
8 extent that the provisions of this article and the provisions
9 of said chapter thirty-one-a are not inconsistent. To the
10 extent of any inconsistencies between the provisions of this
11 article and provisions of chapter thirty-one-a of this code,
12 the provisions of this article shall prevail to the extent of
13 such inconsistencies.

14 (b) The general corporation laws of the state, including the
15 provisions of article one of chapter thirty-one of this code,
16 shall govern industrial loan companies and industrial banks
17 and the chartering thereof, except as otherwise provided
18 herein or where inconsistent with the provisions of this article
19 or chapter thirty-one-a of this code, and to the extent of such
20 inconsistencies, the provisions of this article and chapter thirty-
21 one-a shall prevail.

§31-7-3. Definitions.

1 As used in this article, unless the context otherwise requires a
2 different meaning, the term:

3 (a) "Board" shall mean the West Virginia board of banking
4 and financial institutions;

5 (b) "Commissioner" or "commissioner of banking" shall
6 mean the commissioner of banking of West Virginia and shall
7 also include the department of banking of West Virginia;

8 (c) "Deposit" or "deposits" shall mean the unpaid balance
9 of money or its equivalent received or held by an industrial
10 bank organized pursuant to this article in the usual course
11 of its business and for which it has given or is obligated to
12 give credit, either conditionally or unconditionally, to a savings,
13 time or thrift account, or which is evidenced by its certificate of
14 deposit, but shall not include checking accounts or demand
15 deposits or evidences or certificates of indebtedness;

16 (d) "Industrial bank" shall mean any corporation formed
17 under the provisions of this article with the approval of the
18 board and which is authorized to receive deposits from the
19 general public, and such corporations are hereby declared to
20 be banking institutions within the meaning of section two,
21 article one, chapter thirty-one-a, subject to the limitations
22 contained in this article; and

23 (e) "Industrial loan company" shall mean any corporation
24 formed under the provisions of this article with the approval
25 of the commissioner of banking of this state and which is
26 authorized to sell or offer for sale its secured or unsecured
27 evidences or certificates of indebtedness as hereinafter pre-
28 scribed, but shall not be authorized to accept deposits.

**§31-7-4. Incorporators; name; minimum capital stock; voting rights
of classes of stock; common stock to be paid in be-
fore business commenced; use of certain words in
corporate name prohibited.**

1 (a) In the case of an industrial loan company, any number
2 of persons, not fewer than thirteen, citizens of this state, may
3 become an industrial loan company on the terms and condi-
4 tions and subject to the liabilities prescribed in this article.

5 The name of any industrial loan company formed under this
6 article shall not contain the words “savings” or “savings and
7 loan” and shall not be that of any other existing corporation
8 of this state: *Provided*, That any such corporation heretofore
9 organized which uses the words “savings and loan” as a part
10 of its corporate name shall be authorized to continue to use
11 such words. The capital stock of any such corporation shall
12 not be less than twenty-five thousand dollars, and shall con-
13 sist of shares of common stock. The voting power and con-
14 trol of the corporation during its life shall be vested in the
15 common stock only if more than one class of stock is to be
16 issued. Such common stock, with which it will commence
17 business, shall be paid in before such corporation shall be
18 authorized to engage in business, except such business as is
19 incidental and necessarily preliminary to its organization.

20 (b) In the case of an industrial bank, any number of per-
21 sons, not fewer than thirteen, citizens of this state, may become
22 an industrial bank on the terms and conditions and subject to
23 the liabilities prescribed by this article and the provisions of
24 article four, chapter thirty-one-a of this code subject to such
25 exceptions contained in this article. The name of any industrial
26 bank formed under the provisions of this subsection (b), sec-
27 tion four, shall be, “Industrial Financing Corporation”, and
28 shall include no other words except a trading area, community,
29 city, county or other local identity approved by the board. The
30 capital stock requirements of any such industrial bank shall be
31 the same as those prescribed in subsection (a) and (c) of sec-
32 tion three, article four, chapter thirty-one-a of this code. The
33 voting power and control of any industrial bank shall be vested
34 in the common stock only and such corporations shall issue but
35 one class of stock. Such common stock with which it will com-
36 mence business shall be paid in before such corporation shall be
37 authorized to engage in business as an industrial bank except
38 such business as is incidental and necessarily preliminary to its
39 organization.

**§31-7-5. Industrial banks; requirements and procedure for in-
corporation; agreement of incorporation, issuance of
certificate of incorporation.**

1 Persons desiring to form an industrial bank shall sign and

2 acknowledge an agreement of incorporation, as provided in
3 article one of this chapter.

4 The incorporators shall file with the board such agreement
5 in duplicate and, when filed with the board, shall be accom-
6 panied by the statutory corporation charter fees, and an exam-
7 ination and investigation fee of one thousand dollars payable
8 to the board. If, at the time of such filing, the corporation
9 has already qualified and is conducting business as an indus-
10 trial loan company, then an examination and investigation fee
11 of five hundred dollars shall be payable to the board. When
12 transmitting the agreement to the board, the incorporators shall
13 designate by name and give the address of the attorney, agent
14 or other responsible party with whom the board may commu-
15 nicate, on whom the board may call for further information,
16 and to whom the board may officially report as to action on
17 the agreement so filed with him. The agreement shall consti-
18 tute and may be considered and treated by the board as an
19 application for the board's approval to incorporate and organ-
20 ize an industrial bank in this state.

21 The provisions of section seven, article four, chapter thirty-
22 one-a of this code shall apply to any application for a charter
23 and the issuance of such charter to any industrial bank.

**§31-7-6. Application for authority to organize an industrial bank;
contents; forms prescribed by commissioner.**

1 In addition to any of the requirements contained in chapter
2 thirty-one-a of this code, written application for authority to
3 establish an industrial bank shall be filed with the board by an
4 existing industrial loan company or by a newly formed cor-
5 poration desiring to become an industrial bank and such ap-
6 plication shall include:

7 (a) The name, residence and occupation of each incorpora-
8 tor and stock subscriber and the amount of stock held or sub-
9 scribed for by each, together with a statement under oath of
10 each stock subscriber or stockholder that he subscribes for or
11 holds such stock in good faith in his own right and not as
12 agent or attorney or trustee for any undisclosed person, or,
13 if such agency, attorney relationship or trusteeship exists, then
14 the name, residence and occupation of the beneficial owners

15 or prospective holders of such stock shall be included.

16 (b) The proposed name of such industrial bank.

17 (c) The total capital, the number of shares and the par
18 value of such shares.

19 (d) The address where the proposed industrial bank is to be
20 located.

21 (e) The names of the persons who are to serve as officers
22 and directors of the proposed industrial bank and the official
23 position proposed to be held by each.

24 (f) Such additional information as may be prescribed by the
25 board or the commissioner.

26 Such application shall be made upon forms prescribed and
27 furnished by the commissioner and the commissioner may
28 require such information as he deems necessary to properly
29 consider the merits of such application.

**§31-7-7. Examination and investigation of proposed industrial
bank by board.**

1 (a) When an agreement of incorporation and an applica-
2 tion, fully complying with the requirements of this article, have
3 been filed with the board, it shall promptly make or cause to
4 be made a careful examination and investigation relative to the
5 following:

6 (1) The character, reputation, financial standing and mo-
7 tives of the organizers, incorporators and subscribers in or-
8 ganizing the proposed industrial bank;

9 (2) The need for the facilities and services which the pro-
10 posed industrial bank will offer in the community where it is
11 to be located, giving particular consideration to the adequacy
12 of existing banking services and facilities and financial institu-
13 tions;

14 (3) The present and future ability of the community to sup-
15 port the proposed industrial bank and all other existing banking
16 and other financial institution facilities and services in the
17 community;

18 (4) The character, financial responsibility, banking exper-

19 ience and business qualifications of the proposed officers; and

20 (5) The character, financial responsibility, business exper-
21 ience and standing of the proposed stockholders and directors.

22 (b) The board shall approve or disapprove the application,
23 in the exercise of its reasonable discretion, but shall not ap-
24 prove such application unless it finds:

25 (1) Public convenience and advantage will be promoted by
26 the establishment of the proposed industrial bank;

27 (2) Local conditions assure reasonable promise of success-
28 ful operation for the proposed industrial bank and other finan-
29 cial institutions and other banking institutions already estab-
30 lish in the community;

31 (3) The proposed capital structure is adequate;

32 (4) The proposed officers and directors have sufficient
33 banking experience, ability, character and standing to assure
34 reasonable promise of successful operation;

35 (5) The name of the proposed industrial bank is not so
36 similar as to cause confusion with the name of an existing bank
37 or other financial institution; and

38 (6) Provision has been made for suitable banking house
39 quarters in the community specified in the application.

40 (c) In the course of its examination and investigation, the
41 board may call upon the attorney, agent or other responsible
42 person representing the incorporators and upon the incorpora-
43 tors for additional information and disclosures it deems neces-
44 sary in taking appropriate action on and making proper dis-
45 position of the application.

46 (d) If the proposed industrial bank was in existence and
47 was conducting its affairs as an industrial loan company prior
48 to the effective date of this act, and was selling its certificates
49 or evidences of indebtedness to the general public prior to
50 January first, one thousand nine hundred seventy-four, the
51 board shall not disapprove the application solely for the reasons
52 set forth in subsections (a) (2), (a) (3), (b) (1) and (b)
53 (2) of this section if the proposed industrial bank meets all
54 other requirements.

§31-7-8. Requirements for federal deposit insurance; notice to depositors upon termination.

1 In addition to any other requirements set forth in this article,
2 or which may be set forth in chapter thirty-one-a of this code,
3 any proposed industrial bank shall qualify for federal deposit
4 insurance and be, in fact, insured by the federal deposit insur-
5 ance corporation prior to engaging in business as an industrial
6 bank and shall maintain such insurance during its corporate
7 existence as an industrial bank.

8 If any industrial bank proposes or intends to terminate its
9 insurance with the federal deposit insurance corporation or if
10 notice of termination by the federal deposit insurance corpora-
11 tion has been received by such industrial bank, such industrial
12 bank shall abide by rules and regulations of the federal deposit
13 insurance corporation.

**§31-7-9. Industrial loan companies; agreement of incorporation;
issuance of certificate of incorporation; recordation;
application for and issuance of certificate or license to
engage in business.**

1 Persons desiring to form an industrial loan company shall
2 sign and acknowledge an agreement of incorporation, as pro-
3 vided in article one of this chapter.

4 The agreement shall be delivered to the secretary of state,
5 who, after the agreement has been approved in writing by the
6 commissioner of banking, shall issue to the incorporators his
7 certificate under the great seal of the state as provided in
8 article one of this chapter: *Provided*, That hereafter no charter
9 shall be issued to any industrial loan company under the pro-
10 visions of this article, nor shall any amendment under general
11 law or under the provisions of this article be made to the
12 charter of any existing industrial loan company coming within
13 the terms of this article, whether heretofore or hereafter orga-
14 nized, until the application for such charter or for an amend-
15 ment to such already existing charter has been approved in
16 writing by the commissioner of banking. Such charter, when
17 issued, shall be filed and recorded as provided by law for gen-
18 eral corporations organized under the laws of this state. The
19 provisions of section five, article two, chapter thirty-one-a, in-

20 sofar as the same relates to financial institutions, other than
21 banking institutions, shall apply to the application and issuance
22 of a certificate or license by the Commissioner to an industrial
23 loan company.

§31-7-10. Powers of industrial banks; limitation of powers.

1 (a) The provisions of sections thirteen and fourteen, article
2 four, chapter thirty-one-a to the contrary notwithstanding, and
3 subject to the provisions of subsection (b) of this section, in
4 addition to the general powers conferred upon corporations by
5 the laws of this state and subject to the restrictions, rules and
6 regulations of the federal deposit insurance corporation and
7 the provisions of chapter sixteen of title twelve of the United
8 States Code, each industrial bank organized pursuant to this
9 article shall have power to exercise by its board of directors or
10 duly authorized officers or agents only those powers conferred
11 upon industrial loan companies under the provisions of section
12 eleven of this article and in addition thereto shall have the
13 power to receive deposits from the general public only as long
14 as such deposits are insured by the federal deposit insurance
15 corporation, but shall not be depositories of funds from the
16 government of the United States or from any of its agencies or
17 political subdivisions or from the state of West Virginia or
18 from any of its agencies or political subdivisions or from any
19 other governmental agency.

20 (b) Notwithstanding the provisions of subsection (a) of this
21 section, an industrial bank under the provisions of this article
22 shall not:

23 (1) Make any loan under the provisions of this article for a
24 longer period than two years from the date thereof, except
25 upon express authorization of the board of directors of such
26 industrial bank;

27 (2) Hold at any one time the primary obligation or obliga-
28 tions of any one person, firm or corporation, for more than
29 ten percent of the amount of the paid-up capital and surplus
30 of such industrial bank;

31 (3) Hold at any one time the obligation or obligations of
32 persons, firms or corporations purchased from any person,

33 firm or corporation in excess of twenty percent of the aggre-
34 gate paid-up capital and surplus of such industrial bank;

35 (4) Make any loan or discount on the security of its own
36 capital stock unless such security or purchase shall be neces-
37 sary to prevent loss upon a debt previously contracted in good
38 faith. Stock so purchased or acquired shall be sold at public
39 or private sale or otherwise disposed of within ninety days
40 from the time of its purchase or acquisition;

41 (5) Have deposited with it deposits in an aggregate sum in
42 excess of ten times the aggregate amount of its paid-up capital
43 and surplus;

44 (6) Deposit any of its funds except with a national or state
45 bank doing business in this state or with solvent banking insti-
46 tutions in other states which are federally insured;

47 (7) Pledge or hypothecate any of its securities or notes
48 owned by it to any of its creditors except in the same manner as
49 other banking institutions are permitted to do so under either
50 the provisions of chapter thirty-one-a of this code, the rules and
51 regulations of the commissioner of banking or the rules and
52 regulations of the federal deposit insurance corporation and the
53 provisions of chapter sixteen of title twelve of the United States
54 Code;

55 (8) Pay any fees, bonuses, commissions, rewards, or other
56 consideration to any person, firm or corporation for the privi-
57 lege of using any plan of operation, scheme or device for the or-
58 ganization or carrying on of business under this article, or the
59 use of any name, trademark or copyright to be so used; nor shall
60 any industrial bank organized under this article enter into any
61 contract for such purpose or purposes, or for the purpose of
62 giving to or vesting in any other corporation any power or
63 authority over the organization or management of such in-
64 dustrial bank organized under this article;

65 (9) Pay greater rates of interest on its deposits than are
66 permitted to be paid by other banking institutions;

67 (10) Sell or offer for sale evidences or certificates of indebt-
68 ness; or

69 (11) Receive checking accounts or demand deposits.

§31-7-11. Powers of industrial loan companies; limitation of powers.

1 (a) In addition to the general powers conferred upon cor-
2 portations by the laws of this state, each industrial loan
3 company shall have power to exercise by its board of directors
4 or duly authorized officers or agents, subject to law, all such
5 powers as shall be necessary to:

6 (1) Lend money to any person, firm or corporation, se-
7 cured by the obligation of such person, firm or corporation,
8 or otherwise; and, in addition, to receive and require uniform
9 periodical installments for the repayment of the loan;

10 (2) Sell or offer for sale its secured or unsecured evidences
11 or certificates of indebtedness, and such secured or unsecured
12 evidences or certificates of indebtedness are hereby defined
13 as money for the purpose of taxation, but every such evidence
14 or certificate of indebtedness shall state, on its face, in a
15 clearly visible manner approved by the commissioner, that
16 such evidence or certificate of indebtedness is not federally
17 insured;

18 (3) Buy and sell bonds or choses in action of any person,
19 firm or corporation;

20 (4) Impose a charge of five cents for each default in the
21 payment of one dollar, or fraction thereof, at the time at
22 which any periodical installment for the repayment of a loan
23 becomes due;

24 (5) Demand and receive for loans or for notes, bills or
25 evidences of debt discounted or purchased, such rate of
26 interest as may be agreed upon by the parties, not exceeding
27 the lawful rate of interest, and it shall be lawful to receive
28 such interest in advance;

29 (6) Charge for a loan made pursuant to this section, one
30 dollar for each fifty dollars, or fraction thereof, loaned, for
31 expenses including any examination or investigation of the
32 character and circumstances of the borrower, comaker or
33 surety, and the drawing and taking the acknowledgment of
34 necessary papers, or other expenses, incurred in making the
35 loan. No additional charge shall be made except to reimburse
36 the corporation for money actually expended for additional

37 service actually rendered the borrower. No charge shall be
38 collected unless a loan shall have been made as the result
39 of such examination or investigation;

40 (7) Purchase, hold and convey real estate as follows:

41 (A) Such as shall be necessary for the convenient trans-
42 action of its business, including with its office other apart-
43 ments or offices to rent as a source of income, which invest-
44 ment shall not exceed twenty-five percent of its paid-in
45 capital stock and surplus;

46 (B) Such as is mortgaged to it in good faith by way of
47 security for loans made by or money due to such industrial
48 loan company;

49 (C) Such as is conveyed to it in satisfaction of debts
50 previously contracted in the course of its dealings;

51 (D) Such is acquired by sale on execution or judgment
52 or decree of any court in its favor.

53 Industrial loan companies shall not purchase, hold or
54 convey any real estate in any other case or for any other
55 purpose whatever. Real estate shall be conveyed only by
56 authority of the board of directors of any such industrial
57 loan company. No real estate acquired in the cases con-
58 templated in paragraphs (B), (C) and (D) of subdivision (7)
59 shall be held for a longer time than five years, unless such
60 period shall be extended by the commissioner of banking.

61 (b) An industrial loan company shall not:

62 (1) Accept or receive deposits;

63 (2) Make any loan under the provisions of this article for
64 a longer period than two years from the date thereof, except
65 upon express authorization of the board of directors of such
66 company;

67 (3) Hold at any one time the primary obligation or
68 obligations of any one person, firm or corporation, for more
69 than ten percent of the amount of the paid-up capital and
70 surplus of such industrial loan company;

71 (4) Hold at any one time the obligation or obligations

72 of persons, firms or corporations purchased from any person,
73 firm or corporation in excess of twenty percent of the aggre-
74 gate paid-up capital and surplus of such industrial loan
75 company;

76 (5) Make any loan or discount on the security of its own
77 capital stock (controlling and voting stock, if there be more
78 than one class), unless such security or purchase shall be
79 necessary to prevent loss upon a debt previously contracted
80 in good faith. Stock so purchased or acquired shall be sold
81 at public or private sale or otherwise disposed of within
82 ninety days from the time of its purchase or acquisition;

83 (6) Have outstanding at any time its evidences or cer-
84 tificates of indebtedness, in an aggregate sum in excess of
85 ten times the aggregate amount of its paid-up capital (voting
86 and controlling stock) and surplus;

87 (7) Deposit any of its funds with any other moneyed
88 corporation unless such corporation has been designated as
89 such depository by a vote of the majority of the board of
90 directors;

91 (8) Pledge or hypothecate any of its securities or notes
92 owned by it to any creditor, except that such companies shall
93 have the power to rediscount or to borrow money from any
94 source in addition to selling its evidences or certificates of in-
95 debtedness, but the aggregate amount of such rediscounting and
96 borrowing shall at no time exceed the sum total of the capital,
97 surplus and reserve funds of such company, and the security so
98 pledged therefor shall not exceed two times the amount bor-
99 rowed and rediscounted;

100 (9) Pay any fees, bonuses, commissions, rewards, or other
101 consideration to any person, firm or corporation for the
102 privilege of using any plan of operation, scheme or device for
103 the organization or carrying on of business under this article,
104 or the use of any name, trademark or copyright to be so used;
105 nor shall any industrial loan company under this article enter
106 into any contract for such purpose or purposes, or for the pur-
107 pose of giving to or vesting in any other corporation any power
108 or authority over the organization or management of corpora-
109 tions under this article.

§31-7-12. Cash reserves.

1 (a) Every industrial bank organized pursuant to this article
2 shall at all times maintain a cash reserve equal to five percent
3 of its aggregate deposits and for such purpose the regulatory,
4 reporting and penalty provisions of section twenty-two, article
5 four, chapter thirty-one-a of this code shall apply to such
6 reserves as shall the provision of said section twenty-two with
7 respect to the form or nature of such reserves.

8 (b) Every industrial loan company organized pursuant to
9 the provisions of this article, shall at all times maintain a
10 cash reserve equal to five percent of its issued and outstanding
11 evidences or certificates of indebtedness and the commissioner
12 may prescribe by rule or regulation the form or nature of such
13 reserves.

§31-7-13. Supervision and control.

1 (a) Every industrial loan company shall be subject to
2 the inspection, examination, supervision, jurisdiction and con-
3 trol of the commissioner and the board in the same manner
4 and to the same extent as is the case of banking institutions
5 organized under the laws of this state under the provisions of
6 chapter thirty-one-a of this code insofar as the same are appli-
7 cable thereto. Where forty percent or more of the common
8 stock of any industrial loan company is owned or is held in trust
9 for the benefit of or by any other single firm, corporation, part-
10 nership or association, such other firm, corporation, partnership
11 or association shall also be subject to the same jurisdiction and
12 powers of inspection, examination, supervision and control of
13 the commissioner and of the board in the same manner and to
14 the same extent as if such other firm, corporation, partnership
15 or association were an industrial loan company.

16 (b) Every industrial bank shall be subject to the inspection,
17 examination, supervision, jurisdiction and control of the com-
18 missioner and of the board in the manner provided in chapter
19 thirty-one-a of this code and to the same extent as is the case
20 of other banking institutions organized under the laws of
21 this state and in addition, shall be subject to all of the
22 provisions, regulations and requirements of the federal deposit
23 insurance corporation including the right of inspection, exami-

24 nation, supervision and control as may be required by the
25 federal deposit insurance corporation.

§31-7-14. Branch industrial loan companies or industrial banks forbidden; limited off-premises industrial bank facility permitted; limitation on purchases of industrial bank stock; penalties.

1 (a) No industrial loan company or industrial bank shall:

2 (1) Install or maintain any branch industrial loan com-
3 pany or branch industrial bank; or

4 (2) Engage in business at any place other than at its prin-
5 cipal office in this state: *Provided*, That at any time any such
6 industrial bank may operate one and only one off-premises
7 walk-in or drive-in industrial banking facility, on or in con-
8 junction with or entirely separate from a parking lot for the
9 customers of such industrial bank, for the purpose of receiving
10 deposits, cashing checks, making change, selling and issuing
11 money orders and travelers checks and receiving payments on
12 installment accounts, and for no other purposes, provided such
13 off-premises banking facility is located within two thousand feet
14 of the banking house premises of the industrial bank operating
15 such off-premises facility measured between the nearest points
16 of the banking house premises and the premises on which such
17 off-premises banking facility is located.

18 (b) It shall be unlawful for any individual, partnership,
19 society, association, firm, institution, trust, syndicate, public
20 or private corporation, or any other legal entity, or combina-
21 tion of entities acting in concert, to directly or indirectly own,
22 control or hold with power to vote, twenty-five percent or more
23 of the voting shares of more than seven industrial banks, or
24 to control in any manner the election of a majority of the
25 directors of more than seven industrial banks, and the pro-
26 visions of this subsection shall govern and control irrespective
27 of any other provision of this code restricting or limiting the
28 ownership or control of voting shares of industrial banks or the
29 control of the election of directors thereof, whether such other
30 provision was enacted before or after the enactment of this
31 article.

32 (c) Any violation of any provision of this section shall

33 constitute a misdemeanor offense punishable by applicable
34 penalties as provided in section fifteen of article eight of
35 chapter thirty-one-a of this code.”

§31-7-15. Subrogation.

1 The provisions of section 1821 (g) of chapter sixteen of
2 Title twelve of the United States code shall specifically apply
3 to and shall be a condition upon each deposit in an industrial
4 bank to the same extent as if such provisions were set forth in
5 extenso herein.

**§31-7-16. Annual and special meetings of stockholders; quorum;
annual report; voting; proxies.**

1 The stockholders of each industrial loan company shall
2 meet annually in the month of February, a majority of the
3 outstanding voting stock to constitute a quorum; and it shall
4 be the duty of the secretary to prepare and submit to the
5 stockholders a clear and concise statement of the financial
6 condition of the corporation as of the close of business on the
7 last day of the year next preceding. At such meeting the stock-
8 holders shall elect a board of directors of not less than five nor
9 more than twenty-five, a majority of which shall be bona fide
10 residents of the state of West Virginia. Special meetings may be
11 called by order of the board of directors or by request in
12 writing of ten per centum of the stockholders.

13 In all elections of directors of the corporation each stockhold-
14 er shall have the right to cast one vote for each share of stock
15 owned by him and entitled to vote, and he may cast the same in
16 person or by proxy, for as many persons as there are directors
17 to be elected, or he may cumulate such votes and give one can-
18 didate as many votes as the number of directors to be elected
19 multiplied by the number of his shares of stock shall equal; or
20 he may distribute them on the same principle among as many
21 candidates and in such manner as he may desire, and the direc-
22 tors shall not be elected in any other manner, and on any other
23 question to be determined by a vote of shares at any meeting of
24 stockholders each stockholder shall be entitled to one vote for
25 each share of stock owned by him and entitled to vote, and he
26 may exercise this right in person or by proxy, but if by proxy, in

27 no instance can it be voted in any meeting other than which it
28 was first intended.

29 The provisions of section twenty, article four, chapter thirty-
30 one-a shall govern and control stockholders' meetings of in-
31 dustrial banks.

§31-7-17. Directors; officers.

1 The affairs of every industrial bank and industrial loan
2 company shall be managed by a board of not less than five
3 nor more than twenty-five directors who shall meet at least
4 once each month, a majority of whom shall at all times be
5 bona fide residents of this state, and shall own and hold
6 in his own name at least five hundred dollars par value in
7 unpledged shares of the capital stock or voting stock of such
8 industrial bank or industrial loan company.

9 Immediately upon the adjournment of the stockholders'
10 meeting or as soon thereafter as convenient, the newly
11 elected directors shall meet and every such director elected
12 shall take an oath that he will, so far as duty devolves on
13 him, diligently and honestly administer the affairs of such
14 industrial bank or industrial loan company, and will not know-
15 ingly and willing violate, or permit to be violated, any of the
16 provisions of this article, and that he is the owner in good
17 faith, and in his own right, of at least five hundred dollars
18 par value in shares of the capital stock of such industrial bank
19 or industrial loan company, as required by this section,
20 subscribed by him or standing in his name on the books of such
21 industrial bank or loan company, and that the same are not
22 hypothecated or in any way pledged as security for any loan
23 or debt. Such oath, when subscribed by the director making
24 it, and certified by the officer before whom it was taken, shall
25 immediately be transmitted to the commissioner of banking,
26 and shall be filed and preserved in his office. Should a director
27 fail to subscribe to the oath herein provided for within sixty
28 days after notice of his election or at any time after qualifying
29 as such, sell or dispose of, or in any manner hypothecate or
30 pledge as security for a debt or obligation, such qualifying
31 shares, or any number thereof, necessary for his qualification,
32 or due to death, resignation or inability to serve of any

33 elected director, thereupon the remaining directors shall elect
34 another director in his stead.

35 It shall be the duty of the board at their organization meeting
36 or as soon thereafter as convenient to elect a president who
37 shall be a director, one or more vice-presidents, a secretary
38 or manager, treasurer and such other officers necessary for
39 the conduct of business as may be designated in the bylaws.

§31-7-18. Chief executive and other officers to be bonded; personal liability of directors for manager's defalcation.

1 (a) The directors of every industrial loan company shall
2 require the manager or other chief executive officer appointed
3 by them in lieu of a manager, before he performs or enters up-
4 on any duties as such manager or chief executive officer, to
5 give a bond or bonds, with a surety company authorized to
6 transact business in this state as surety thereon, the amount to
7 be fixed by them, but in no case shall the penalty be less than
8 five thousand dollars. Other officers and personnel are to be
9 bonded in amounts commensurate with their duties and re-
10 sponsibilities, to be fixed by the board of directors, and all
11 bonds are to be approved by the commissioner of banking and
12 a copy filed with his department; and it shall be the duty of
13 the directors, as often as once in every year, to pass upon the
14 sufficiency of such bond or bonds, and if insufficient, to re-
15 quire without delay new and additional bonds and securities to
16 be given. If the directors shall fail to perform any or all of the
17 requirements of this section, they shall be jointly and severally
18 liable to the industrial bank or to the industrial loan company,
19 as the case may be; to the extent of any defalcation of or de-
20 ficiency in the funds of such bank or company created or
21 caused by such manager, not in excess of the penalty of his
22 bond, the same to be recovered by such industrial bank or
23 industrial loan company in any court of competent jurisdiction
24 of this state.

25 (b) The directors, managers, chief executive officers and
26 employees of an industrial bank shall give a bond or bonds as
27 may be required by the provisions of chapter thirty-one-a of
28 this code and the federal deposit insurance corporation. The
29 requirements of said chapter thirty-one-a and the requirements,

30 rules and regulations of the federal deposit insurance corpor-
31 ation shall apply to any defalcation of any such bond or bonds.

§31-7-19. List of stockholders; right of inspection.

1 The president, manager or treasurer of every industrial bank
2 or of every industrial loan company shall at all times cause to
3 be kept a true and accurate list of the names of stockholders
4 of record, with the amount of stock held by each, which list
5 shall at all times during business hours be open to the inspec-
6 tion of any stockholder, or to the inspection of the commis-
7 sioner or his duly authorized representative or to the autho-
8 rized personnel or representatives of the federal deposit insur-
9 ance corporation.

§31-7-20. Dividends.

1 The board of directors of any industrial loan company may
2 at any time declare dividends out of the net accrued cash earn-
3 ings of the company, payable upon the controlling and voting
4 stock thereof, but no such dividend shall be paid until after
5 the payment of all the fixed amounts agreed to be paid upon
6 other classes of stock and the interest upon the evidences or
7 certificates of indebtedness of the company. Unearned interest,
8 accrued and uncollected interest shall not be distributed as a
9 part of the profits.

10 Dividends of an industrial bank shall be declared and paid
11 in accordance with the provisions of section twenty-five, article
12 four, chapter thirty-one of this code.

§31-7-21. Amendments to bylaws by industrial loan companies.

1 The stockholders at any regular, or special meeting called
2 for that purpose, may amend the bylaws of any industrial loan
3 company organized under the provisions of this article, but
4 before they become operative they must be approved by the
5 commissioner of banking.

§31-7-22. Voluntary dissolution of industrial loan companies.

1 Whenever any industrial loan company shall determine by
2 its board of directors, with the consent of three fourths of the
3 holders of its controlling and voting stock, to discontinue its
4 business and settle its affairs, it shall be lawful for such board

5 of directors to file with the commissioner of banking of this
6 state a certificate in writing, signed and acknowledged by such
7 stockholders, expressing such consent, and likewise the certi-
8 ficate of the board of directors under the corporate seal, set-
9 ting forth such intention, and that they thereby surrender to
10 the state their corporate privileges and powers and authority
11 to do business as an industrial loan company. Thereupon such
12 corporation shall be deemed and taken to be dissolved, except
13 for the purpose of distributing its assets and otherwise setting
14 its affairs, as provided in article one of this chapter.

**§31-7-23. Loans to officers and employees of industrial loan com-
panies; penalty.**

1 No industrial loan company shall make any loan to its
2 president, its vice-president, its manager, or to any of its di-
3 rectors, or to any of its clerks, tellers, bookkeepers, agents, ser-
4 vants or other persons in its employ, until the proposition to
5 make such loan, stating the amount, terms and security, if
6 any, offered therefor shall have been submitted in writing by
7 the person desiring the same to a meeting of the board of di-
8 rectors of such company or of the executive or discount com-
9 mittee of such board, if any, and accepted and approved by
10 the vote of a majority of those present constituting a quorum.
11 The president, vice-president, director, manager, clerk, teller,
12 bookkeeper, or agent of any industrial loan company who
13 knowingly violates this section, or who aids or abets any offi-
14 cer, clerk or agent in any such violation, shall be deemed guilty
15 of a misdemeanor, and, upon conviction thereof, shall be fined
16 not more than one thousand dollars or imprisoned in the
17 county jail not more than one year, or both.

§31-7-24. Advertising requirements and prohibitions.

1 (a) No industrial loan company shall hereafter advertise
2 for the purpose of soliciting the sale or offer for sale of its
3 secured or unsecured evidences or certificates of indebtedness
4 irrespective of the advertising media used unless such adver-
5 tisement shall contain a statement that such corporation is not
6 insured by any agency of the federal government and that such
7 evidences or certificates of indebtedness are not insured by any
8 agency of the federal government unless such insurance does

9 in fact exist and, if so, the amount of such insurance shall be
10 stated; nor shall any such advertisement refer to such evi-
11 dences or certificates of indebtedness as "savings accounts,"
12 "deposits" or "savings deposits" and the use of such terms in
13 any such advertisements is hereby prohibited.

14 The display of the words "NOT FEDERALLY INSURED"
15 in letters at least one third the size of the largest type size used
16 in any display or advertisement, but in no event smaller than
17 twelve point type bold upper case, shall be deemed to be com-
18 pliance with this section.

19 (b) No industrial bank shall advertise itself as a bank nor
20 shall any of its advertisements, irrespective of the media used,
21 contain the word or term "bank," "banker," "banking com-
22 pany," "banking association," "bankers association," "savings
23 bank," or "trust company."

**§31-7-25. Restrictions upon statements or advertisements relating
to guaranteeing the payment to holders of certificates of
indebtedness; use of certain symbols or devices pro-
hibited.**

1 (a) No industrial loan company in advertising for the pur-
2 pose of soliciting the sale or offer for sale or for any other pur-
3 pose related to the sale of its secured or unsecured evidences or
4 certificates of indebtedness or for any other purpose irrespective
5 of the media used or in any statements made in any manner to
6 any prospective purchaser of such evidences or certificates shall
7 state that the payment required by the terms of such evidences
8 or certificates of indebtedness is guaranteed unless such pay-
9 ment is so guaranteed by a source or from resources which are
10 independent of and separate from the resources and assets of
11 such company and if so guaranteed the source, terms and con-
12 ditions of such guarantee shall be stated upon the face of every
13 such evidence or certificate of indebtedness in the manner and
14 form prescribed by the commissioner and such source, terms
15 and conditions shall be first approved in writing by the com-
16 missioner.

17 (b) No industrial loan company shall use in any of its
18 advertisements, signs, displays, stationery, or documents or
19 in any other manner use any symbol, device, trademark or

20 seal which is alike or deceptively similar to any device,
 21 symbol, trademark, or seal of the federal deposit insurance
 22 corporation or of any other federal agency or of any other
 23 corporation authorized to transact business in this state
 24 and any such symbol, device, trademark or seal proposed to
 25 be adopted or used by any such industrial loan company
 26 shall, prior to its adoption or use, be approved in writing
 27 by the commissioner.

§31-7-26. Rules and regulations.

1 The commissioner and the board may, from time to time,
 2 adopt and promulgate such rules and regulations as they
 3 deem appropriate to carry into effect the provisions of this
 4 article in accordance with the provisions of chapter thirty-
 5 one-a of this code. All such rules and regulations shall be
 6 so adopted and promulgated in the manner prescribed in
 7 chapter twenty-nine-a of this code and the provisions of said
 8 chapter twenty-nine-a shall apply to the adoption and pro-
 9 mulgation of such rules and regulations as if such provisions
 10 were set forth in extenso herein.

**§31-7-27. Additional powers and duties of the commissioner; fees;
 powers of the board; appeals and judicial review.**

1 (a) Except as may be inconsistent with the provisions of
 2 this article, all of the duties, powers and authority imposed
 3 upon the commissioner or vested in him by the provisions
 4 of chapter thirty-one-a of this code shall be applicable with
 5 respect to industrial banks and industrial loan companies
 6 created pursuant to the provisions of this article and all fees,
 7 costs and expenses authorized to be collected by the com-
 8 missioner by the terms of said chapter thirty-one-a shall
 9 apply to and be collected from such industrial banks and
 10 industrial loan companies when appropriate. Appeals from
 11 any orders or actions of the commissioner or judicial review
 12 thereof shall be in the same manner as may be prescribed in
 13 chapter twenty-nine-a of this code.

14 (b) Except as may be inconsistent with the provisions of
 15 this article, the board shall have the same general powers and
 16 duties with respect to industrial banks and industrial loan
 17 companies organized and created under the provisions of this

18 article as are contained in chapter thirty-one-a of this code.
19 All provisions for hearing procedures and procedures for
20 judicial review and appeals therefrom as are contained in
21 said articles three and eight, chapter thirty-one-a shall apply
22 to this article to the same extent as if such provisions were
23 set forth in extenso herein.

§31-7-28. Article applicable to existing companies of like nature originally chartered under building and loan association laws.

1 Any corporation now organized, existing and doing any
2 business in this state on a plan which would come within the
3 scope of the regulatory provisions of this article, and which
4 was originally chartered with the approval of the commissioner
5 of banking under the laws of this state providing for the
6 organization of building and loan associations, shall fully
7 comply with, and be subject to, all the regulatory provisions
8 hereof and shall be subject to the supervision and control of
9 the commissioner as herein provided; but nothing herein
10 shall affect or modify the corporate existence of any such
11 existing corporation, and any such existing corporation shall
12 be authorized and allowed to sell the full amount of its
13 present authorized capital stock on the terms and conditions
14 heretofore approved by the commissioner.

§31-7-29. Severability and constitutionality.

1 If any provisions of this article or the application thereof to
2 any person or circumstance is held to be unconstitutional or
3 otherwise invalid, the remainder of this article and the applica-
4 tion of such provision to other persons or circumstances shall
5 not be affected thereby, and it shall be conclusively presumed
6 that the Legislature would have enacted the remainder of this
7 article without such invalid or unconstitutional provisions.

CHAPTER 31A. BANKS AND BANKING.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§31A-1-2. Definitions.

1 As used in this chapter, unless the context in which used
2 plainly requires a different meaning:

3 (a) The word "action," in the sense of a judicial pro-
4 ceeding, means any proceeding in a court of competent juris-
5 diction in which rights are adjudicated and determined and
6 shall embrace and include recoupment, counterclaim, setoff
7 and other related, similar and summary proceedings;

8 (b) The words "bank" and "banking institution" mean a
9 corporation heretofore or hereafter chartered to conduct a
10 banking business under the laws of West Virginia or an
11 association heretofore or hereafter authorized to conduct a
12 banking business in West Virginia under the laws of the
13 United States and having its principal office in this state and
14 shall embrace and include a trust company or an institution
15 combining banking and trust company facilities, functions and
16 services so chartered or authorized to conduct such business
17 in this state, and shall include industrial banks authorized by
18 article seven, chapter thirty-one of this code, subject to the
19 limitations therein imposed on such industrial banks and
20 further subject to the limitations imposed thereon in this
21 article;

22 (c) The term "banking business" means the functions,
23 services and activities contained, detailed and embraced
24 in sections thirteen and fourteen of article four of this chapter
25 and as elsewhere defined by law;

26 (d) The word "board" means the West Virginia board of
27 banking and financial institutions;

28 (e) The words "commissioner" or "commissioner of bank-
29 ing" mean the commissioner of banking of West Virginia;

30 (f) The word "community" means a city, town or other
31 incorporated area, or, where not so incorporated, a trading
32 area;

33 (g) The word "department" means the department of
34 banking of West Virginia;

35 (h) The words "deputy commissioner" or "deputy com-
36 missioner of banking" mean the deputy commissioner of
37 banking of West Virginia;

38 (i) The word "fiduciary" means any trustee, agent, execu-
39 tor, administrator, curator, committee, guardian or conserva-

40 tor, special commissioner, receiver, trustee in bankruptcy,
41 assignee for creditors, or any holder of a similar position of
42 trust or responsibility;

43 (j) The words "financial institutions" mean banks, build-
44 ing and loan associations, industrial banks, industrial loan
45 companies, small loan companies, credit unions and all other
46 similar institutions, whether persons, firms or corporations,
47 which are by law under the jurisdiction and supervision of
48 the commissioner of banking;

49 (k) The word "officer" when referring to any financial
50 institution, means any person designated as such in the bylaws
51 and includes, whether or not so designated, any executive
52 officer, the chairman of the board of directors, the chairman
53 of the executive committee, and any trust officer, assistant
54 vice-president, assistant treasurer, assistant secretary, assistant
55 trust officer, assistant cashier, assistant comptroller, or any
56 other person who performs the duties appropriate to those
57 offices, and the term "executive officer" as herein used, when
58 referring to banking institutions, means an officer of a bank
59 whose duties involve regular, active and substantial participa-
60 tion in the daily operations of such institution and who, by
61 virtue of his position, has both a voice in the formulation of
62 the policy of the bank and responsibility for implementation
63 of the policy, such responsibility of and functions performed
64 by the individual, and not his title or office, being determina-
65 tive of whether he is an "executive officer";

66 (l) The words "person" or "persons" mean any individual,
67 partnership, society, association, firm, institution, company,
68 public or private corporation, state, governmental agency,
69 bureau, department, division or instrumentality, political sub-
70 division, county court, municipality, trust, syndicate, estate or
71 any other legal entity whatsoever, formed, created or existing
72 under the laws of this state or any other jurisdiction;

73 (m) The words "safe-deposit box" mean a safe-deposit
74 box, vault or other safe-deposit receptacle maintained by a
75 lessor bank, and the rules relating thereto apply to property or
76 documents kept therein in the bank's vault under the joint
77 control of lessor and lessee;

78 (n) The words "state bank" or "state banking institution"
79 mean a bank chartered under the laws of West Virginia, as
80 distinguished from a national banking association; and

81 (o) The words "trust business" mean the functions, services
82 and activities contained, detailed and embraced in section
83 fourteen of article four of this chapter and as elsewhere de-
84 fined by law and as may be included within the meaning of
85 the term "banking business".

ARTICLE 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.

§31A-4-14. Trust powers of banking institutions.

1 Every state banking institution, except industrial banks
2 created and organized pursuant to the provisions of article
3 seven, chapter thirty-one-a of this code, which files the certi-
4 ficate required in the following section and which is otherwise
5 authorized to do so, shall have and exercise the following
6 powers:

6 (a) All the powers, rights and privileges of any state bank-
7 ing institution;

8 (b) To act as trustee, assignee, special commissioner, gen-
9 eral or special receiver, guardian, executor, administrator,
10 committee, agent, curator, or in any other fiduciary capacity,
11 and to take, assume, accept and execute trusts of every de-
12 scription not inconsistent with the Constitution and laws of
13 the United States of America or of this state; and to receive,
14 hold, manage and apply any sinking fund on the terms and for
15 the purposes specified in the instrument creating such fund;

16 (c) To act as registrar, transfer agent or dividend or coupon
17 paying agent for any corporation;

18 (d) To make, hold and dispose of investments and establish
19 common trust funds, and account therefor, pursuant to the
20 provisions of chapter forty-four of this code;

21 (e) To purchase and sell and take charge of and receive the
22 rents, issues and profits of any real estate for other persons or
23 corporations;

24 (f) To act as trustee or agent in any collateral trust and in
25 order to secure the payment of any obligations of any person,

26 firm, private corporation, public corporation, public body or
27 public agency to receive and hold in trust any items of personal
28 property (including without limitation notes, bonds, debentures,
29 obligations and certificates for shares of stock) with the right in
30 case of default to sell and dispose of such personal property
31 and to collect, settle and adjust any obligations for the pay-
32 ment of money, and at any sale of such personal property held
33 by it, to purchase the same for the benefit of all or any of the
34 holders of the obligations, to secure the payment of which such
35 items of personal property were pledged and delivered to the
36 trustee or agent. Any such sale may be made without any pro-
37 ceedings in any court, and at such times and upon such terms
38 as may be specified in the instrument or instruments creating
39 the trust, or, in the absence of any specification of terms, at
40 such time and upon such terms as the trustee shall deem rea-
41 sonable; and

42 (g) To do and perform any act or thing requisite or neces-
43 sary in, or incidental to, the exercise of the general powers
44 herein set forth.

45 All national banks having their principal offices in this state
46 which have been, or hereafter may be, authorized under the
47 laws of the United States to act as trustee and in other fidu-
48 ciary capacities in the state of West Virginia shall have all the
49 rights, powers, privileges and immunities conferred hereunder,
50 provided they have a capital of at least one hundred thousand
51 dollars and comply with the requirements hereof.

**§31A-4-22. Reserves required of banking institutions; reports;
penalties.**

1 Each state banking institution, except industrial banks
2 created and organized pursuant to the provisions of article
3 seven, chapter thirty-one of this code shall at all times main-
4 tain on hand as a reserve in lawful money of the United
5 States of America an amount equal to at least seven percent
6 of the aggregate of all of its deposits which are subject to
7 withdrawal on demand and three percent of its time deposits.
8 Whenever the commissioner of banking shall determine that
9 the maintenance of sound banking practices or the prevention
10 of injurious credit expansion or contraction makes such

11 action advisable, he may by rule or regulation from time to
12 time change such requirements as to reserves against demand
13 or time deposits, or both, but the reserves so prescribed shall
14 in no event be less than those specified in this section nor
15 more than twice those specified. Whenever such reserve shall
16 fall below that required, the institution shall not thereafter
17 make any new loan or investment until the required reserve
18 shall be restored. For the purpose of computing such reserve,
19 all deposits requiring notice of thirty days or more for with-
20 drawal and time certificates of deposit and Christmas savings
21 shall be deemed time deposits, and all checking accounts,
22 certified checks, cashier's checks, demand certificates of deposit
23 and balances due other banks shall be deemed demand de-
24 posits. But in lieu of lawful money on hand, four fifths of
25 such reserve may consist of balances payable on demand
26 from any national or state bank doing business in this state
27 or solvent banking institutions in other states. The reserve
28 balances required herein shall be computed on the basis of
29 average daily net deposit balances and average daily currency
30 and coin during biweekly periods. The required reserve bal-
31 ance of each bank shall be computed at the close of business
32 each day based upon its net deposit balances and currency and
33 coin at the opening of business on the same day. The
34 biweekly period shall end at the close of business on days
35 to be fixed by the commissioner in his promulgated rules
36 and regulations. When, however, the reserve computation
37 period ends with a nonbusiness day, or two or more con-
38 secutive nonbusiness days, such nonbusiness day or days may,
39 at the option of the banking institution, and whether or not
40 it had a deficiency in reserve balances in such computation
41 period, be included in the next biweekly computation period.

42 The commissioner shall, by rule and regulation, require
43 regular reports from such banking institutions, which reports
44 shall be submitted at such times and contain such information
45 as will enable the commissioner to adequately supervise the
46 maintenance of reserves under this section. Penalties for any
47 deficiencies in the required reserves of any banking institution
48 shall be assessed monthly by the commissioner on the basis
49 of average daily deficiencies during each of the computation
50 periods ending in the preceding calendar month. Such

51 penalties shall be assessed at a rate of two percent per annum
52 above the lowest rate applicable to borrowings by member
53 banks from the federal reserve bank of the district in which
54 such deficient institution is located on the first day of the
55 calendar month in which the deficiencies occurred. Such
56 penalties shall be paid by the commissioner into the treasury
57 of the state of West Virginia and credited to the general fund.

58 Compliance on the part of any such banking institution
59 which is a member of the federal reserve system with the
60 reserve requirements of the Federal Reserve Act, as amended,
61 shall be full compliance with the provisions hereof. No such
62 member bank shall be required to carry or maintain a reserve
63 other than such as required under terms of the Federal
64 Reserve Act, as amended.

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

H. David Darty
Chairman Senate Committee

Clarence C. Thurston Jr.
Chairman House Committee

Originated in the House.

85
jel

Takes effect ~~ninety~~ days from passage.

Hawaii Wilson
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

H. P. Brotherton, Jr.
President of the Senate

Louis N. M. Manus
Speaker House of Delegates

The within approved this the 26th
day of March, 1974.

Arwa. P. P. P.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/21/74

Time 10:30 a.m.