WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

ENROLLED
SENATE BILL NO. 360

(By Mr. Nelson)

PASSED April 11, 1981
In Effect ninety days from Passage
ENROLLED

Senate Bill No. 360
(By MR. NELSON)

[Passed April 11, 1961; in effect ninety days from passage.]

AN ACT to amend and reenact sections eleven and twelve, article seven, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to restricting the issuance of evidences of indebtedness by industrial loan companies by requiring approval in advance of their issuance by the state commissioner of banking and allowing the cash reserves of said companies required on said evidences to be invested in specific short-term investments secured by United States government obligations.

Be it enacted by the Legislature of West Virginia:

That sections eleven and twelve, article seven, 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:

ARTICLE 7. INDUSTRIAL BANKS AND INDUSTRIAL LOAN COMPANIES.

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

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

6 (1) Lend money to any person, firm or corporation, secured by the obligation of such person, firm or corporation, or otherwise; and, in addition, to receive and require uniform periodical installments for the repayment of the loan;
(2) Sell or offer for sale, with prior written approval of the commissioner, its secured or unsecured evidences or certificates of indebtedness, and such secured or unsecured evidences or certificates of indebtedness are hereby defined as money for the purpose of taxation, but every such evidence or certificate of indebtedness shall state, on its face, in a clearly visible manner approved by the commissioner, that such evidence or certificate of indebtedness is not federally insured;

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

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

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

(6) Charge for a loan made pursuant to this section, one dollar for each fifty dollars, or fraction thereof, loaned, for expenses including any examination or investigation of the character and circumstances of the borrower, comaker or surety, and the drawing and taking the acknowledgment of necessary papers, or other expenses, incurred in making the loan. No additional charge shall be made except to reimburse the corporation for money actually expended for additional service actually rendered the borrower. No charge shall be collected unless a loan shall have been made as the result of such examination or investigation;

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

(A) Such as shall be necessary for the convenient transaction of its business, including with its office other apartments or offices to rent as a source of income, which investment shall not exceed twenty-five percent of its paid-in capital stock and surplus;

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

(C) Such as is conveyed to it in satisfaction of debts previously contracted in the course of its dealings;
(D) Such as is acquired by sale on execution or judgment or decree of any court in its favor.

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

(b) An industrial loan company shall not:

(1) Accept or receive deposits;

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

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

(4) Hold at any one time the obligation or obligations of persons, firms or corporations purchased from any person, firm or corporation in excess of twenty percent of the aggregate paid-up capital and surplus of such industrial loan company;

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

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

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

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

(9) Pay any fees, bonuses, commissions, rewards, or other consideration to any person, firm or corporation for the privilege of using any plan of operation, scheme or device for the organization or carrying on of business under this article, or the use of any name, trademark or copyright to be so used; nor shall any industrial loan company under this article enter into any contract for such purpose or purposes, or for the purpose of giving to or vesting in any other corporation any power or authority over the organization or management of corporations under this article.

§31-7-12. Cash reserves.

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

(b) Every industrial loan company organized pursuant to the provisions of this article shall at all times maintain a cash reserve equal to five percent of its issued and outstanding evidences or certificates of indebtedness and, upon approval by the commissioner, such reserves may take the form of agreements, not to exceed a seven-day term, to purchase and resell United States treasury and United States government agency obligations and overnight federal funds sold secured by United States treasury or United States agency obligations.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Baylan
Chairman Senate Committee

Tony E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Judd C. Willis
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

David L. Rockefeller
Speaker House of Delegates

The within bill is approved this the 28th day of April, 1981.

[Signature]
Governor