

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

Time \_\_\_\_\_

Mo: 360

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1981



ENROLLED

SENATE BILL NO. 360

(By Mr. Nelson)



PASSED April 11, 1981

In Effect ninety day from Passage



**ENROLLED**  
**Senate Bill No. 360**

(By MR. NELSON)

[Passed April 11, 1981; 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
- 2 corporations by the laws of this state, each industrial loan
- 3 company shall have power to exercise by its board of
- 4 directors or duly authorized officers or agents, subject to law,
- 5 all such powers as shall be necessary to:
  - 6 (1) Lend money to any person, firm or corporation,
  - 7 secured 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, with prior written approval of the  
11, commissioner, its secured or unsecured evidences or  
12 certificates of indebtedness, and such secured or unsecured  
13 evidences or certificates of indebtedness are hereby defined  
14 as money for the purpose of taxation, but every such evidence  
15 or certificate of indebtedness shall state, on its face, in a  
16 clearly visible manner approved by the commissioner, that  
17 such evidence or certificate of indebtedness is not federally  
18 insured;

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

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

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

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

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

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

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

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

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

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

62 (b) An industrial loan company shall not:

63 (1) Accept or receive deposits;

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

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

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

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

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

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

92 (8) Pledge or hypothecate any of its securities or notes  
93 owned by it to any creditor, except that such companies shall

94 have the power to rediscount or to borrow money from any  
95 source in addition to selling its evidences or certificates of  
96 indebtedness, but the aggregate amount of such  
97 rediscounting and borrowing shall at no time exceed the sum  
98 total of the capital, surplus and reserve funds of such  
99 company, and the security so pledged therefor shall not  
100 exceed two times the amount borrowed and rediscounted;

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

**§31-7-12. Cash reserves.**

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

9 (b) Every industrial loan company organized pursuant to  
10 the provisions of this article shall at all times maintain a cash  
11 reserve equal to five percent of its issued and outstanding  
12 evidences or certificates of indebtedness and, upon approval  
13 by the commissioner, such reserves may take the form of  
14 agreements, not to exceed a seven-day term, to purchase and  
15 resell United States treasury and United States government  
16 agency obligations and overnight federal funds sold secured  
17 by United States treasury or United States agency  
18 obligations.

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

*R. P. Bayler*  
Chairman Senate Committee

*Tony E. Whitlow*  
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

*David C. Willis*  
Clerk of the Senate

*CA Blankenship*  
Clerk of the House of Delegates

*Mark R. ...*  
President of the Senate

*Walter H. ...*  
Speaker House of Delegates

The within *is approved* this the *28*

day of *April*, 1981.

*John H. ...*  
Governor

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SECY. OF STATE