WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

ENROLLED
Committee Substitute for
SENATE BILL NO. 331

(By Mr. McGraw, Mr. President)

PASSED March 13, 1982
In Effect ninety days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 331

(BY MR. McGRAW, MR. PRESIDENT, original sponsor)

[Passed March 13, 1982; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article one, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section four, article two of said chapter; to amend and reenact sections two and three, article three of said chapter; to amend and reenact section seven, article seven of said chapter; to amend and reenact sections twelve and twelve-a, article eight of said chapter; to further amend said article by adding thereto a new section, designated section twelve-b; and to amend said chapter by adding thereto two new articles, designated articles eight-a and eight-b, all relating to general definitions; defining "branch bank"; relating to general powers and duties of the commissioner of banking of West Virginia; authorizing said commissioner to adopt rules and regulations applicable to consumer loans and credit sales; authorizing said commissioner to approve or disapprove applications to change the location of the principal office of state banking institutions; general powers and duties of the West Virginia board of banking and financial institutions; authorizing said board to approve the reorganization, purchase, merger or consolidation of like financial institutions; authorizing said board to approve or disapprove applications for branch banks; providing that branch banks may be established by the purchase of assets of or merger or consolidation with another banking institution, or
by the construction, lease or acquisition of branch bank facilities in an unbanked area; defining “unbanked area”; relating to hearings and orders; permitting banks to establish and maintain branch banks subject to certain limitations and restrictions; setting forth procedures for authorization of branch banks by said board; prescribing fees for examination and investigation of applications for branch banks; authorizing limited off-premises banking facilities; messenger services, armored car service or other courier or delivery service permitted with certain limitations; granting to banking institutions having their principal offices in the state, individually or jointly with one or more other banking institutions or federally insured financial institutions having their principal offices in this state, or any combination thereof, the right to install, operate and engage in banking transactions by means of one or more customer bank communication terminals; providing that such terminals shall not be considered to be branch banks or branch offices, agencies or places of business or off-premises walk-in or drive-in banking facilities; defining “customer bank communication terminal” and “point of sale terminal”; requiring that a bank which installs a customer bank communication terminal make the same available for use by customers of other banking institutions with certain exceptions; prohibiting installation and operation of a customer bank communication terminal by any financial institution which does not have its principal office in this state; exempting the operation of customer-bank communication terminals involved in a non-exclusive access interchange system from the definition of branching; allowing acquisition of the capital stock of one or more banks by a bank holding company if said board does not disapprove such acquisition within ninety days following submission of reports respecting such action with certain exceptions; prescribing fees for examination and investigation of such proposed action; defining “company”, “subsidiary”, “successor” and “bank holding company”; providing exceptions for the prior notification of said board; providing for the registration and reporting of bank holding companies; prescribing annual registration fees for bank holding companies; providing criminal penalties for violation of certain provisions; community reinvestment; requiring the commissioner and the board to encourage financial institutions to meet the credit needs of their local communities; defining “application for a
deposit facility”; requiring the commissioner or board to assess reinvestment in the community in considering applications for a deposit facility; and commissioner to promulgate rules and regulations.

Be it enacted by the Legislature of West Virginia:

That section two, article one, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section four, article two of said chapter be amended and reenacted; that sections two and three, article three of said chapter be amended and reenacted; that section seven, article seven of said chapter be amended and reenacted; that sections twelve and twelve-a, article eight of said chapter be amended and reenacted; that said article eight be further amended by adding thereto a new section, designated section twelve-b; and that said chapter be amended by adding thereto two new articles, designated articles eight-a and eight-b, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND 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
4 proceeding, means any proceeding in a court of competent
5 jurisdiction in which rights are adjudicated and determined
6 and shall embrace and include recoupment, counterclaim,
7 setoff 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
16 and services so chartered or authorized to conduct such
17 business in this state, and shall include industrial banks
18 authorized by article seven, chapter thirty-one of this code,
19 subject to the limitations therein imposed on such industrial
20 banks and further subject to the limitations imposed thereon
21 in this article;
(c) The term "banking business" means the functions, services and activities contained, detailed and embraced in sections thirteen and fourteen of article four of this chapter and as elsewhere defined by law;

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

(e) The words "branch bank" mean an office or other place at which a bank performs any or all banking business. For purposes of this chapter, a branch bank does not include:

   (1) A bank's principal place of business;

   (2) Any limited off-premises walk-in or drive-in banking facility authorized by subdivision (2), subsection (a), section twelve, article eight of this chapter; and

   (3) Any customer bank communication terminals installed and operated pursuant to section twelve-b, article eight of this chapter.

(f) The words "commissioner" or "commissioner of banking" mean the commissioner of banking of West Virginia;

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

(h) The word "department" means the department of banking of West Virginia;

(i) The words "deputy commissioner" or "deputy commissioner of banking" mean the deputy commissioner of banking of West Virginia;

(j) The word "fiduciary" means any trustee, agent, executor, administrator, curator, committee, guardian or conservator, special commissioner, receiver, trustee in bankruptcy, assignee for creditors, or any holder of a similar position of trust or responsibility;

(k) The words "financial institutions" mean banks, building and loan associations, industrial banks, industrial loan companies, supervised lenders, credit unions and all other similar institutions, whether persons, firms or corporations, which are by law under the jurisdiction and supervision of the commissioner of banking;

(l) The word "officer" when referring to any financial institution, means any person designated as such in the bylaws and includes, whether or not so designated, any executive officer, the chairman of the board of directors, the chairman of the executive committee, and any trust officer,
assistant vice president, assistant treasurer, assistant 
secretary, assistant trust officer, assistant cashier, assistant 
comptroller, or any other person who performs the duties 
appropriate to those offices, and the terms “executive officer” 
as herein used, when referring to banking institutions, means 
an officer of a bank whose duties involve regular, active and 
substantial participation in the daily operations of such 
institution and who, by virtue of his position, has both a voice 
in the formulation of the policy of the bank and responsibility 
for implementation of the policy, such responsibility of and 
functions performed by the individual, and not his title or 
office, being determinative of whether he is an “executive 
officer”; 
(m) The words “person” or “persons” mean any 
individual, partnership, society, association, firm, institution, 
company, public or private corporation, state, governmental 
agency, bureau, department, division or instrumentality, 
political subdivision, county commission, municipality, trust, 
syndicate, estate or any other legal entity whatsoever, formed, 
created or existing under the laws of this state or any other 
jurisdiction; 
(n) The words “safe-deposit box” mean a safe-deposit box, 
vault or other safe-deposit receptacle maintained by a lessor 
bank, and the rules relating thereto apply to property or 
documents kept therein in the bank’s vault under the joint 
control of lessor and lessee; 
(o) The words “state bank” or “state banking institution” 
mean a bank chartered under the laws of West Virginia, as 
distinguished from a national banking association; and 
p) The words “trust business” mean the functions, 
services and activities contained, detailed and embraced in 
section fourteen of article four of this chapter and as 
exthere else defined by law and as may be included within the 
meaning of the term “banking business.”

ARTICLE 2. DEPARTMENT OF BANKING.

§31A-2-4. Jurisdiction of commissioner; powers, etc., of 
department transferred to commissioner; powers 
and duties of commissioner.

(a) Subject to the powers vested in the board by article 
three of this chapter, the commissioner shall have 
supervision and jurisdiction over state banks (other than 
those banks excepted by the provisions of section eleven of
this article), industrial loan companies, building and loan
associations, supervised lenders, credit unions, and all other
persons now or hereafter made subject to his supervision or
jurisdiction. All powers, duties, rights and privileges vested
in the department are hereby vested in the commissioner. He
shall be the chief executive officer of the department of
banking and shall be responsible for the department’s
organization, services and personnel, and for the orderly and
efficient administration, enforcement and execution of the
provisions of this chapter and all laws vesting authority or
powers in or prescribing duties or functions for the
department or the commissioner.

(b) The commissioner shall:

(1) Maintain the office for the department at the state
capitol, and there keep a complete record of all the
department’s transactions, of the financial conditions of all
financial institutions and such records of the activities of
other persons as the commissioner may deem important.
Notwithstanding any other provision of the code of West
Virginia, heretofore or hereafter enacted, the records relating
to the financial condition of any financial institution and any
information contained therein shall be confidential for the
use of the commissioner and authorized personnel of the
department of banking. No person shall divulge any
information contained in any such records except in response
to a valid subpoena or subpoena duces tecum issued
pursuant to law. The commissioner shall have and may
exercise reasonable discretion as to the time, manner and
extent the other records in his office and the information
contained therein shall be available for public examination.

(2) Require all financial institutions to comply with all the
provisions of this chapter and other applicable laws, or any
rule and regulation promulgated or order issued thereunder.

(3) Investigate all alleged violations of this chapter and all
other laws which he is required to enforce and of any rule and
regulation promulgated or order issued thereunder.

(c) In addition to all other authority and powers vested in
the commissioner by provisions of this chapter and other
applicable laws, the commissioner is authorized and
empowered:

(1) To provide for the organization of the department and
the procedures and practices thereof and implement the same
by the promulgation of rules and regulations and forms as
appropriate, which rules and regulations shall be promulgated in accordance with article three, chapter twenty-nine-a of this code;

(2) Employ, direct, discipline, discharge and establish qualifications and duties for all personnel for the department, including, but not limited to, examiners, assistant examiners, conservators and receivers, to establish the amount and condition of bonds for such thereof as he deems appropriate and to pay the premiums thereon, and if he so elects, to have all such personnel subject to and under the classified service of the state personnel department;

(3) To cooperate with organizations, agencies, committees and other representatives of financial institutions of the state in connection with schools, seminars, conferences and other meetings to improve the responsibilities, services and stability of the financial institutions;

(4) In addition to the examinations required by section six of this article, to inspect, examine and audit the books, records, accounts and papers of all financial institutions at such times as circumstances in his opinion may warrant;

(5) To call for and require all such data, reports and information from financial institutions under his jurisdiction, at such times and in such form, content and detail, deemed necessary by him in the faithful discharge of his duties and responsibilities in the supervision of the financial institutions;

(6) Subject to the powers vested in the board by article three of this chapter, to supervise the location, organization, practices and procedures of financial institutions and, without limitation on the general powers of supervision thereof, to require financial institutions to:

(A) Maintain their accounts consistent with such regulations as he may prescribe and in accordance with generally accepted accounting practices;

(B) Observe methods and standards which he may prescribe for determining the value of various types of assets;

(C) Charge off the whole or any part of an asset which at the time of his action could not lawfully be acquired;

(D) Write down an asset to its market value;

(E) Record or file writings creating or evidencing liens or other interests in property;

(F) Obtain financial statements from prospective and existing borrowers;
(G) Obtain insurance against damage and loss to real estate and personal property taken as security;
(H) Maintain adequate insurance against such other risks as he may deem and determine to be necessary and appropriate for the protection of depositors and the public;
(I) Maintain an adequate fidelity bond or bonds on its officers and employees;
(J) Take such other action as may in his judgment be required of the institution in order to maintain its stability, integrity and security as required by law and all rules and regulations promulgated by him; and
(K) Verify any or all asset or liability accounts.

(7) Subject to the powers vested in the board by article three of this chapter, to receive from any person or persons and to consider any request, petition or application relating to the organization, location, conduct, services, policies and procedures of any financial institution and to act thereupon in accordance with any provisions of law applicable thereto;

(8) In connection with the investigations required by subdivision (3), subsection (b) of this section, to issue subpoenas and subpoenas duces tecum, administer oaths, examine persons under oath, and hold and conduct hearings, any such subpoenas or subpoenas duces tecum to be issued, served and enforced in the manner provided in section one, article five, chapter twenty-nine-a of this code. Any person appearing and testifying at such a hearing may be accompanied by an attorney employed by him;

(9) To issue declaratory rulings in accordance with the provisions of section one, article four, chapter twenty-nine-a of this code;

(10) To study and survey the location, size and services of financial institutions, the geographic, industrial, economic and population factors affecting the agricultural, commercial and social life of the state, and the needs for reducing, expanding or otherwise modifying the services and facilities of financial institutions in the various parts of the state, and to compile and keep current data thereon to aid and guide him in the administration of the duties of his office;

(11) To implement all of the provisions of this chapter (except the provisions of article three) and all other laws which he is empowered to administer and enforce by the promulgation of rules and regulations in accordance with the provisions of article three, chapter twenty-nine-a of this code;
(12) To implement the provisions of chapter forty-six-a of this code applicable to consumer loans and consumer credit sales by the promulgation of rules and regulations in accordance with the provisions of article three, chapter twenty-nine-a of this code so long as said rules and regulations do not conflict with any rules and regulations promulgated by the state's attorney general;

(13) To foster and encourage a working relationship between the department of banking and financial institutions, credit, consumer, mercantile and other commercial and finance groups and interests in the state in order to make current appraisals of the quality, stability and availability of the services and facilities of financial institutions;

(14) To provide to financial institutions and the public copies of the West Virginia statutes relating to financial institutions, suggested drafts of bylaws commonly used by financial institutions, and such other forms and printed materials as may be found by him to be helpful to financial institutions, their shareholders, depositors and patrons, and to make reasonable charges therefor;

(15) To delegate the powers and duties of his office, other than the powers and duties in this subsection hereinafter excepted, to qualified department personnel, who shall act under the direction and supervision of the commissioner and for whose acts he shall be responsible, but the commissioner may delegate to the deputy commissioner of banking and to no other department personnel the following powers, duties and responsibilities, all of which are hereby granted to and vested in the commissioner and for all of which the commissioner shall likewise be responsible:

(A) To order any person to cease violating any provision or provisions of this chapter or other applicable law or any rule and regulation promulgated or order issued thereunder;

(B) To order any person to cease engaging in any unsound practice or procedure which may detrimentally affect any financial institution or depositor thereof; and

(C) To revoke the certificate of authority, permit or license of any financial institution except a banking institution in accordance with the provisions of section thirteen of this article;

(16) To receive from state banking institutions
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176 applications to change the locations of their principal offices
177 and to approve or disapprove such applications; and
178 (17) To take such other action as he may deem necessary
179 to enforce and administer the provisions of this chapter
180 (except the provisions of article three) and all other laws
181 which he is empowered to administer and enforce, and to
182 apply to any court of competent jurisdiction for appropriate
183 orders, writs, processes and remedies.

ARTICLE 3. BOARD OF BANKING AND FINANCIAL INSTITUTIONS.

§31A-3-2. General powers and duties.
1 (a) In addition to other powers conferred by this chapter,
2 the board shall have the power to:
3 (1) Regulate its own procedure and practice;
4 (2) Promulgate reasonable rules and regulations to
5 implement any provision of this article, such rules and
6 regulations to be promulgated in accordance with the
7 provisions of article three, chapter twenty-nine-a of this code;
8 (3) Advise the commissioner in all matters within his
9 jurisdiction;
10 (4) Study the organization, programs and services of
11 financial institutions and the laws relating thereto in this state
12 and in other jurisdictions, and to report and recommend to
13 the governor and the Legislature all such changes and
14 amendments in laws, policies and procedures relating thereto
15 as may be by it deemed proper; and
16 (5) Grant permission and authority to a financial
17 institution:
18 (A) To participate in a public agency hereafter created
19 under the laws of this state or of the United States, the
20 purpose of which is to afford advantages or safeguards to
21 financial institutions or to depositors therein, and to comply
22 with all lawful requirements and conditions imposed upon
23 such participants;
24 (B) To engage in any financial institution activity,
25 services, procedures and practices in which financial
26 institutions of the same type subject to the jurisdiction of the
27 federal government may hereafter be authorized by federal
28 laws, rules or regulations to engage, notwithstanding any
29 contrary provision of this code;
30 (C) To pay interest on demand deposits of the United
31 States or any agency thereof, if the payment of such interest
shall be permitted under any applicable federal law, rule or
regulation.
Any permission and authority granted by the board
pursuant to this subdivision (5) shall cease and terminate
upon the adjournment of the next regular session of the
Legislature, unless the Legislature shall at such session enact
legislation authorizing the financial institution participation,
activity, services and procedures or payment of interest with
respect to which such permission and authority were granted,
in which event such permission and authority shall continue
in effect until the effective date of such legislation.
(b) The board shall further have the power, by entering
appropriate orders, to:
(1) Restrict the withdrawal of deposits from any financial
institution when in the judgment of the board extraordinary
circumstances make such restrictions necessary for the
protection of creditors of and depositors in the affected
institution;
(2) Compel the holder of shares in any corporate financial
institution to refrain from voting said shares on any matter
when in the judgment of the board such order is necessary to
protect the institution against reckless, incompetent or
careless management, to safeguard funds of depositors in the
institution, or to prevent willful violation of any applicable
law or of any rule and regulation or order issued thereunder.
In such a case the shares of such a holder shall not be counted
in determining the existence of a quorum or a percentage of
the outstanding shares necessary to take any corporate
action;
(3) Approve or disapprove applications to incorporate and
organize state banking institutions in accordance with the
provisions of sections six and seven, article four of this
chapter;
(4) Revoke the certificate of authority, permit, certificate
or license of any state banking institution to engage in
business in this state if such institution shall fail or refuse to
comply with any order of the commissioner entered pursuant
to the provisions of paragraphs (A) or (B), subdivision (14),
subsection (c), section four, article two of this chapter, or at
the board's election to direct the commissioner to apply to
any court having jurisdiction for a prohibitory or mandatory
injunction or other appropriate remedy to compel obedience
to such order;
(5) Suspend or remove a director, officer or employee of any financial institution who is or becomes ineligible to hold such position under any provision of law or rule and regulation or order, or who willfully disregards or fails to comply with any order of the board or commissioner made and entered in accordance with the provisions of this chapter or who is dishonest or grossly incompetent in the conduct of financial institution business;

(6) To receive from state banking institutions applications to establish branch banks by the purchase of the business and assets and assumption of the liabilities of, or merger or consolidation with, another banking institution, or by the construction, lease or acquisition of branch bank facilities in an unbanked area; examine and investigate such applications, to hold hearings thereon, and to approve or disapprove such applications, all in accordance with section twelve, article eight of this chapter;

(7) Approve or disapprove the application of any state bank to purchase the business and assets and assume the liabilities of, or merge or consolidate with, another state banking institution in accordance with the provisions of section seven, article seven of this chapter: Provided, That nothing contained in this subdivision shall be construed as permitting any banking institution to engage in any other practice prohibited by section twelve, article eight of this chapter, except as permitted by subdivision (9) of this subsection (b);

(8) Approve or disapprove the application of any state bank to purchase the business and assets and assume the liabilities of a national banking association, or merge or consolidate with a national banking association to form a resulting state bank in accordance with the provisions of section seven, article seven of this chapter: Provided, That nothing contained in this subdivision shall be construed as permitting any banking institution to engage in any other practice prohibited by section twelve, article eight of this chapter, except as permitted by subdivision (9) of this subsection (b); and

(9) In addition to any authority granted pursuant to section twelve, article eight of this chapter, incident to the approval of an application pursuant to subdivision (7) or subdivision (8) of this subsection (b), permit the bank the application of which is so approved to operate its banking
business under its name from the premises of the bank the
business and assets of which have been purchased and the
liabilities of which have been assumed by such applicant
bank or with which such applicant bank has merged or
consolidated: Provided, That such permission may be
granted only if the board has made the findings required by
subsection (f), section three of this article and such applicant
bank has no common directors or officers nor common
ownership of stock exceeding ten percent of total
outstanding voting stock with the bank whose business and
assets are being purchased and liabilities assumed or with
whom such applicant bank is being merged.

(10) No provision of this section shall be construed to
alter, reduce or modify the rights of shareholders, or
obligations of a banking institution in regard to its
shareholders, as set forth in section one hundred seventeen,
article one, chapter thirty-one of this code and section seven,
article seven of this chapter and other applicable provisions
of this code.

§31A-3-3. Hearings and orders; entry of order without notice
and hearing.

(a) Subject to the provisions of subsections (e), (f) and (g)
of this section, notice and hearing shall be provided in
advance of the entry of any order by the board.

(1) Such notice shall be given to the financial institution or
person with respect to whom the hearing is to be conducted
in accordance with the provisions of section two, article
seven, chapter twenty-nine-a of this code, and such hearing
and the administrative procedures in connection therewith
shall be governed by all of the provisions of article five,
chapter twenty-nine-a of this code, and shall be held at a time
and place set by the board, but shall not be held less than ten
nor more than thirty days after such notice is given. A hearing
may be continued by the board on its own motion or for good
cause shown.

(2) At any such hearing a party may represent himself or
be represented by an attorney-at-law admitted to practice
before any circuit court of this state.

(b) After any such hearing and consideration of all of the
testimony and evidence, the board shall make and enter an
order deciding the matters with respect to which such
hearing was conducted, which order shall be accompanied by
findings of fact and conclusions of law as specified in section three, article five, chapter twenty-nine-a of this code, and a copy of such order and accompanying findings and conclusions shall be served upon all parties to such hearing, and their attorneys of record, if any.

(c) In the case of an application for the board's approval to incorporate and organize a banking institution in this state, as provided in subdivision (3), subsection (b), section two of this article, the board shall, upon receipt of any such application, provide notice to all banking institutions, which in the manner hereinafter provided, have requested notice of any such action. The request by any such banking institution to receive such notice shall be in writing and shall request the board to notify it of the receipt by the board of any application to incorporate and organize a banking institution in this state. A banking institution may, within ten days after receipt of such notice, file a petition to intervene and shall, if it so files such petition, thereupon become a party to any hearing relating thereto before the board.

(d) The board shall have the power and authority to issue subpoenas and subpoenas duces tecum, administer oaths and examine any person under oath in connection with any subject relating to duties imposed upon or powers vested in the board.

(e) Whenever the board shall find that extraordinary circumstances exist which require immediate action, it may forthwith without notice or hearing enter an order taking any action permitted by subdivisions (1), (2), (4) and (5) of subsection (b), section two of this article. Immediately upon the entry of such order, certified copies thereof shall be served upon all persons affected thereby and upon demand such persons shall be entitled to a hearing thereon at the earliest practicable time.

(f) Whenever the board shall find that the financial condition of a state banking institution or a national banking association constitutes an imminent peril to its depositors, savings account holders, other customers or creditors, it may forthwith without notice or hearing enter an order taking any action permitted by subdivisions (7) and (8) of subsection (b), section two of this article. Immediately upon entry of such order, certified copies thereof shall be served upon all persons affected thereby and upon demand such persons
shall be entitled to a hearing thereon at the earliest practicable time.

(g) Whenever the board shall find that the financial condition of a state banking institution or national banking association constitutes an imminent peril to its depositors, savings account holders, other customers or creditors, it may forthwith without compliance with the provisions of section six or seven, article four of this chapter and without notice or hearing enter an order approving or disapproving an application to incorporate a state banking institution which is being formed to purchase the business and assets or assume the liabilities of, or both, or merge or consolidate with, such state banking institution or national banking institution the financial condition of which constitutes an imminent peril to its depositors, savings account holders, other customers or creditors. Immediately upon the entry of such order, certified copies thereof shall be served upon all persons affected thereby and upon demand such persons shall be entitled to a hearing thereon at the earliest practicable time.

(h) Definitions:

(1) The term “imminent peril” means that, because the banking institution is insolvent or about to be insolvent, or there is a probability that the banking institution will not be able to pay its debts when they become due.

(2) A banking institution is “about to be insolvent” when it would be unable to meet the demands of its depositors or is clearly unable, without impairment of capital, by sale of assets or lawful borrowings or otherwise, to realize sufficient liquid assets to pay such debts for which payment is likely, in the immediate future, to be due and demanded in the ordinary course of business.

(3) A banking institution is “insolvent” when it is unable to pay its debts to its depositors and other creditors in the ordinary and usual course of business.

ARTICLE 7. REGULATION OF FAILING FINANCIAL INSTITUTIONS.

§31A-7-7. Reorganization, purchase, merger or consolidation of and by financial institutions; conversion of national bank to state bank; obligations remain effective.

Subject to the other provisions of this section, in any voluntary or involuntary proceeding to liquidate a financial
institution for which a receiver has been appointed under this article, such institution, with the written consent of the commissioner, may reorganize, reclaim possession of its assets and continue in business.

Any financial institution may at any time, but only with the approval of the West Virginia board of banking and financial institutions in the case of a state banking institution and with the approval of the commissioner in the case of all other financial institutions, purchase the business and assets and assume the liabilities of or merge or consolidate with another like financial institution. With the approval of the West Virginia board of banking and financial institutions and in compliance with all applicable laws of this state and the United States, any state banking institution may purchase the business and assets and assume the liabilities of a national banking association or merge or consolidate with a national banking association to form a resulting state bank, the terms and conditions of any such assumption, purchase, merger or consolidation to be first approved by the board. With the approval of the West Virginia board of banking and financial institutions and in compliance with all applicable laws of this state and the United States, a national banking association may convert into a state bank. After any such purchase, merger or consolidation, no other association or corporation may take or use the name of any financial institution participating in such purchase, merger or consolidation.

Unless in conflict with a law of the United States of America, at the completion of any purchase, merger or consolidation permitted by this section and whether such financial institution is organized under the laws of this state or of the United States, the purchasing, merged or consolidated institution is substituted by operation of law in the place and stead of each of the participating financial institutions in all fiduciary relationships, titles, properties, offices, appointments, rights, powers, duties, obligations and liabilities of each participating financial institution as trustee, agent, executor, administrator, guardian, depository, registrar, transfer agent or other fiduciary and every other capacity, office or position of each of the participating financial institutions is by operation of law vested in and devolved upon the purchasing, merged or consolidated institution. Such purchasing, merged or consolidated institution shall take, receive, accept, hold, administer and discharge all grants, gifts, bequests, devises, conveyances,
trusts, powers and appointments made by deed, deed of trust, will, agreement, order of court or otherwise to, in favor of or in the name of any such participating institution, whether made, executed or entered before or after such purchase, merger or consolidation and whether to vest or become effective before or after such purchase, merger or consolidation, as fully and to the same effect as if the purchasing, merged or consolidated institution had been named in such deed, deed of trust, will, agreement, order or other instrument instead of such participating institution. All acts taken or performed in its own name or in the name of or in behalf of any financial institution participating in any such purchase, merger or consolidation by any purchasing, merged or consolidated institution as trustee, agent, executor, administrator, guardian, depository, registrar, transfer agent or other fiduciary are as good, valid and effective as if this section had been applicable thereto at the time of such taking or performance.

ARTICLE 8. HEARINGS; ADMINISTRATIVE PROCEDURES; JUDICIAL REVIEW; UNLAWFUL ACTS; PENALTIES.

§31A-8-12. Certain limitations and restrictions imposed on branch banks; procedure for authorization of branch banks; authorization of limited off-premises banking facilities; penalties for violation of section.

1 (a) No banking institution shall:
2 (1) Establish or maintain any branch bank, except as otherwise permitted by this section; or
3 (2) Engage in business at any place other than at its principal office in this state, at a branch bank in this state permitted by this section or at a customer bank communication terminal permitted by section twelve-b of this article: Provided, That at any time any such banking institution and any branch bank established by the purchase of the business and assets and assumption of the liabilities of, or merger or consolidation with, another banking institution, may operate one and only one off-premises walk-in or drive-in banking facility, on or in conjunction with or entirely separate from a parking lot for the customers of such banking institution, for the purpose of receiving bank deposits of all kinds, cashing checks, making change, selling and issuing money orders and travelers checks and receiving payments
on loans, savings and rental accounts, and for no other purposes, provided such off-premises banking facility is located within two thousand feet of the banking house premises or branch bank premises of the banking institution operating such off-premises facility measured between the nearest points of the banking house premises and the premises on which such off-premises banking facility is located. Such off-premises banking facility shall be in addition to any branch bank permitted by this section.

(b) Except for a bank holding company, it shall be unlawful for any individual, partnership, society, association, firm, institution, trust, syndicate, public or private corporation, or any other legal entity, or combination of entities acting in concert, to directly or indirectly own, control or hold with power to vote, twenty-five percent or more of the voting shares of each of two or more banks, or to control in any manner the election of a majority of the directors of two or more banks.

(c) A branch bank may be established in accordance with subsection (d) of this section either by:

(1) The construction, lease or acquisition of branch bank facilities in an unbanked area; or

(2) The purchase of the business and assets and assumption of the liabilities of, or merger or consolidation with, another banking institution.

Notwithstanding any other provision of this chapter to the contrary, subject to and in furtherance of the board’s authority under the provisions of subdivision (6), subsection (b), section two, article three of this chapter, and subsection (k) of this section, the board may approve or disapprove the application of any state banking institution to establish a branch bank.

(d) During the five-year period beginning ninety days from the effective date of this act, a banking institution may establish:

(1) Not more than three branch banks by the purchase of the business and assets and assumption of the liabilities of, or merger or consolidation with, another banking institution; and

(2) In addition to the forgoing, a banking institution may establish one branch by the construction, lease or acquisition of a facility in an unbanked area within the county in which is situate its principal office. Not more than two branches may
be established in this manner in each unbanked area. For purposes of this section an area is an “unbanked area” if no banking institution or branch bank created by merger and consolidation exists within the limits of an incorporated municipality.

(e) The principal office of a banking institution on the effective date of this act shall continue to be the principal office of such banking institution for purposes of establishing branch banks under this section, notwithstanding any subsequent change in the location of such banking institution’s principal office.

(f) It shall be unlawful for any banking institution to establish any branch bank by the purchase of the business and assets and assumption of the liabilities of, or merger or consolidation with, another banking institution if such establishment would cause the combined deposits of the resulting banking institution to exceed ten percent of the total deposits of all banking institutions in this state as determined by the latest available reports of condition as compiled by the Federal Deposit Insurance Corporation.

(g) Any banking institution which is authorized to establish branch banks pursuant to this section may provide the same banking services and exercise the same powers at each such branch bank as may be provided and exercised at its principal banking house.

(h) The board shall, upon receipt of any application to establish a branch bank, provide notice of such application to all banking institutions. A banking institution may, within ten days after receipt of such notice, file a petition to intervene and shall, if it so files such petition, thereupon become a party to any hearing relating thereto before the board.

(i) The commissioner shall prescribe the form of the application for a branch bank and shall collect an examination and investigation fee of one thousand dollars for each filed application for a branch bank that is to be established by the construction, lease or acquisition of a branch bank facility in an unbanked area and two thousand five hundred dollars for a branch bank that is to be established by the purchase of the business and assets and assumption of the liabilities of, or merger or consolidation with another banking institution. The board shall complete the examination and investigation within ninety days from
the date on which such application and fee are received, 
unless the board requests in writing additional information 
and disclosures concerning the proposed branch bank from 
the applicant banking institution, in which event such 
ninety-day period shall be extended for an additional period 
of thirty days plus the number of days between the date of 
such request and the date such additional information and 
disclosures are received.

(j) Upon completion of the examination and investigation 
with respect to such application, the board shall, if a hearing 
be required pursuant to subsection (k) of this section, 
forthwith give notice and hold a hearing pursuant to the 
following provisions:

(1) Notice of such hearing shall be given to the banking 
institution with respect to which the hearing is to be 
conducted in accordance with the provisions of section two, 
article seven of chapter twenty-nine-a of this code, and such 
hearing and the administrative procedures in connection 
therewith shall be governed by all of the provisions of article 
five, chapter twenty-nine-a of this code, and shall be held at a 
time and place set by the board but shall not be less than ten 
nor more than thirty days after such notice is given.

(2) At any such hearing a party may represent himself or 
be represented by an attorney-at-law admitted to practice 
before any circuit court of this state.

(3) After such hearing and consideration of all the 
testimony and evidence, the board shall make and enter an 
order approving or disapproving the application, which order 
shall be accompanied by findings of fact and conclusions of 
law as specified in section three, article five, chapter 
twenty-nine-a of this code, and a copy of such order and 
accompanying findings and conclusions shall be served upon 
all parties to such hearing, and their attorneys of record, if 
any.

(k) No state banking institution may establish a branch 
bank until the board, following an examination, 
investigation, notice and hearing, enters an order approving 
an application for that branch bank: Provided, That no such 
hearing shall be required with respect to any application to 
establish a branch bank which is approved by the board 
unless a banking institution has timely filed a petition to 
intervene pursuant to subsection (h) of this section. The order 
shall be accompanied by findings of fact that:
(1) Public convenience and advantage will be promoted by the establishment of the proposed branch bank;
(2) Local conditions assure reasonable promise of successful operation of the proposed branch bank and of those banks and branches thereof already established in the community;
(3) Suitable physical facilities will be provided for the branch bank; and
(4) The applicant state banking institution satisfies such reasonable and appropriate requirements as to sound financial condition as the commissioner or board may from time to time establish by regulation.

(l) Any party who is adversely affected by the order of the board shall be entitled to judicial review thereof in the manner provided in section four, article five, chapter twenty-nine-a of this code. Any such party adversely affected by a final judgment of a circuit court following judicial review as provided in the foregoing sentence may seek review thereof by appeal to the supreme court of appeals in the manner provided in article six, chapter twenty-nine-a of this code.

(m) Pursuant to the resolution of its board of directors and with the prior approval of the commissioner, a state banking institution may discontinue the operation of a branch bank upon at least thirty days' prior public notice given in such form and manner as the commissioner prescribes.

(n) Any violation of any provision of this section shall constitute a misdemeanor offense punishable by applicable penalties as provided in section fifteen, article eight of this chapter.

§31A-8-12a. Banking from mobile units prohibited; prohibition not to include messenger services; limitation of messenger services.

It is illegal for any banking institution, building and loan association, industrial loan company or supervised lender to conduct its business in a facility that is a mobile unit not permanently attached to the real estate upon which it is located, except that such mobile units may be used as temporary banking quarters pending construction of a permanent bank building on the same or adjacent property thereto if a charter for said bank has previously been approved. This section shall not be construed or interpreted
to prohibit a financial institution from providing messenger services to its customers by which items are received by mail, armored car service or other courier or delivery service for subsequent deposit: Provided, That all such messenger services are confined to the territorial boundaries of the county in which the principal office of such financial institution is located or within twenty-five miles of the principal office of such financial institution.

§31A-8-12b. Installation and operation of customer bank communication terminals permitted.

(a) Any banking institution as defined in section two, article one of this chapter, individually or jointly with one or more other banking institutions or other federally insured financial institutions having their principal offices in this state, or any combination thereof, may upon thirty days prior written notice filed with the commissioner, install, operate and engage in banking business by means of one or more customer bank communication terminals. Any banking institution which installs and operates a customer bank communication terminal:

1. (1) Shall make such customer bank communication terminal available for use by other banking institutions; and
2. (2) May make such customer bank communication terminal available for use by other federally insured financial institutions, all in accordance with regulations promulgated by the commissioner. Such customer bank communication terminals shall not be considered to be branch banks or branch offices, agencies or places of business or off-premises walk-in or drive-in banking facilities; nor shall the operation of such customer bank communication terminals to communicate with and permit financial transactions to be carried out through a non-exclusive access interchange system be considered to make any banking institution which is part of such a non-exclusive access interchange system to have illegal branch banks or branch offices, agencies or places of business or off-premises walk-in or drive-in banking facilities.

(b) Notwithstanding the provisions of subdivision (1), subsection (a) of this section, a customer bank communication terminal located on the premises of the principal office or branch bank of a banking institution or on the premises of an authorized off-premises facility need not
be made available for use by any other banking institution or its customers.

c) For the purposes of this section "customer bank communication terminal" means any electronic device or machine, together with all associated equipment, structures and systems, including without limitation point of sale terminals, through or by means of which a customer and a banking institution may engage in any banking transactions, whether transmitted to the banking institution instantaneously or otherwise, including, without limitation, the receipt of deposits of every kind, the receipt and dispensing of cash, requests to withdraw money from an account or pursuant to a previously authorized line of credit, receiving payments payable at the bank or otherwise transmitting instructions to receive, transfer or pay funds for a customer's benefit. All transactions initiated through a customer bank communication terminal shall be subject to verification by the banking institution.

d) For the purposes of this section "point of sale terminal" means a customer bank communication terminal used for the primary purpose of either transferring funds to or from one or more deposit accounts in a banking institution or segregating funds in one or more deposit accounts in a banking institution for future transfer, or both, in order to execute transactions between a person and his customers incident to sales, including, without limitation, devices and machines which may be used to implement and facilitate check guaranty and check authorization programs.

e) Except for customer bank communication terminals located on the premises of the principal office or a branch bank of the banking institution or on the premises of an authorized off-premises walk-in or drive-in banking facility, a customer bank communication terminal shall be unattended or attended by persons not employed by any banking institution utilizing the terminal: Provided, That

(1) Employees of the banking institution may be present at such terminal not located on the premises of an authorized off-premises facility solely for the purposes of installing, maintaining, repairing and servicing same; and

(2) For a period of time not to exceed two months after the opening of any such terminal, a banking institution may provide an employee to instruct and assist customers in the operation thereof.
76 (f) The commissioner shall prescribe by regulation the
77 procedures and standards regarding the installation and
78 operation of customer bank communication terminals,
79 including, without limitation, the procedure for the sharing
80 thereof.

ARTICLE 8A. ACQUISITIONS OF BANK SHARES.

§31A-8A-1. Legislative findings and purpose.
1 After a review of the structure of banking organizations in
2 the state of West Virginia, and after full consideration of the
3 complex issues involved, the Legislature hereby finds and
4 determines that:
5 (a) Well managed and financially sound banking
6 institutions are essential to the financial well being of the
7 citizens, and the promotion of the future economic and
8 industrial growth and development, of this state;
9 (b) The formation of bank holding companies will
10 strengthen and supplement traditional banking services and
11 facilitate the development of the type of banking institutions
12 that are necessary for the economic and industrial growth and
13 development of this state;
14 (c) It is in the best interests of this state and its citizens for
15 the board to have the power and authority to disapprove the
16 acquisition of a bank by a bank holding company when the
17 board determines that such acquisition would result in a
18 monopoly, substantially lessen competition, or be contrary to
19 the best interests of the shareholders or customers of the
20 bank involved;
21 (d) The deposits of the citizens of this state are a
22 substantial and valuable resource which should serve the
23 economic and industrial growth and development needs, and
24 the consumer needs of the citizens of this state; and since the
25 board could not effectively make a determination that the
26 control of deposits of the citizens of this state by bank holding
27 companies with any banking subsidiaries located outside this
28 state would be used for the above enumerated local needs of
29 this state’s citizenry, a bank holding company with any bank
30 subsidiary located outside this state shall be prohibited from
31 acquiring, directly or indirectly, five percent or more of the
32 interest in or assets of, any bank or bank holding company
33 located in this state; and
34 (e) It is in the best interests of this state and its citizens to
35 prevent excessive concentration or control of the deposit
resources of this state by prohibiting acquisitions of banks by
bank holding companies which would thus control more than
ten percent of this state's total banking deposits.

1 As used in this article, unless the context in which used
2 plainly requires a different meaning:
3 (a) "Company" means any corporation, partnership,
business trust, association or similar organization, or any
other trust unless by its terms it must terminate within
twenty-five years or not later than twenty-one years and ten
months after the death of individuals living on the effective
date of the trust, but shall not include any corporation the
majority of the shares of which are owned by the United
States or by any state;
4 (b) "Subsidiary", with respect to a specific bank holding
company, means:
5 (1) Any company twenty-five percent or more of whose
voting shares (excluding shares owned by the United States
or by any company wholly owned by the United States) is
directly or indirectly owned or controlled by such bank
holding company, or is held by it with power to vote,
6 (2) Any company the election of a majority of whose
directors is controlled in any manner by such bank holding
company, or
7 (3) Any company with respect to the management or
policies of which such bank holding company has the power,
directly or indirectly, to exercise a controlling influence, as
determined by the board, after notice and opportunity for
hearing;
8 (c) The term "successor" shall include any company
which acquires directly or indirectly from a bank holding
company shares of any bank, when and if the relationship
between such company and the bank holding company is
such that the transaction effects no substantial change in the
control of the bank or beneficial ownership of such shares of
such bank. The commissioner may, by regulation, further
define the term "successor" to the extent necessary to
prevent evasion of the purposes of this article.

1 (a) (1) Except as provided in subdivision (5) of this
subsection, "bank holding company" means any company
which has control over any bank or over any company that is
or becomes a bank holding company pursuant to this article.

(2) Any company has control over a bank or over any
company if:

(A) The company directly or indirectly or acting through
one or more other persons owns, controls, or has power to
vote twenty-five percent or more of any class of voting
securities of the bank or company;

(B) The company controls in any manner the election of a
majority of the directors or trustees of the bank or company;

or

(C) The board determines, after notice and a hearing
pursuant to the provisions of section three, article three of
this chapter, that the company directly or indirectly exercises
a controlling influence over the management or policies of
the bank or company.

(3) For the purposes of any proceeding under subdivision
(2) (C) of this subsection, there is a presumption that any
company which directly or indirectly owns, controls, or has
power to vote less than five percent of any class of voting
securities of a given bank or company does not have control
over that bank or company.

(4) In any administrative or judicial proceeding under this
article, other than a proceeding under subdivision (2) (C) of
this subsection, a company may not be held to have had
control over any given bank or company at any given time
unless that company, at the time in question, directly or
indirectly owned, controlled, or had power to vote five
percent or more of any class of voting securities of the bank or
company, or had already been found to have control in a
proceeding under subdivision (2) (C).

(5) Notwithstanding any other provision of this
subsection:

(A) No bank and no company owning or controlling
voting shares of a bank is a bank holding company by virtue
of its ownership or control of shares in a fiduciary capacity,
except as provided in subdivisions (2) and (3), subsection (b)
of this section. For the purpose of the preceding sentence,
bank shares shall not be deemed to have been acquired in a
fiduciary capacity if the acquiring bank or company has sole
discretionary authority to exercise voting rights with respect
thereto; and
(B) No company is a bank holding company by virtue of its ownership or control of shares acquired in securing or collecting a debt previously contracted in good faith, until five years after the date of acquisition.

(6) For the purposes of this article, any successor to a bank holding company shall be deemed to be a bank holding company from the date on which the predecessor company became a bank holding company.

(b) For the purposes of this article:

(1) Shares owned or controlled by any subsidiary of a bank holding company shall be deemed to be indirectly owned or controlled by such bank holding company;

(2) Shares held or controlled directly or indirectly by trustees for the benefit of:

(A) A company,

(B) The shareholders or members of a company, or

(C) The employees (whether exclusively or not) of a company, shall be deemed to be controlled by such company;

and

(3) Shares transferred by any bank holding company (or by the company, which, but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor, or has one or more officers, directors, trustees or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor unless the board, after notice and a hearing pursuant to the provisions of section three, article three of this chapter, determines that the transferor is not in fact capable of controlling the transferee.

§31A-8A-4. Acquisition of bank shares; when prior notification of board necessary; exemptions.

(a) It shall be unlawful, prior to ninety days following the date of the submission to the board of complete, true and accurate copies of the reports required under federal laws or regulations pursuant to Title 12, United States Code, §§1841-1850 (being the act of Congress entitled the Bank Holding Company Act of 1956, as amended), and the payment of an examination and investigation fee to the board of two thousand five hundred dollars:

(1) For any action to be taken that causes any company to become a bank holding company;
(2) For any action to be taken that causes any bank to become a subsidiary of a bank holding company;
(3) For any bank holding company to acquire direct or indirect ownership or control of any shares of any bank if, after such acquisition, such company will directly or indirectly own or control more than five percent of the voting shares of such bank;
(4) For any bank holding company or subsidiary thereof, other than a bank, to acquire all or substantially all of the assets of a bank;
(5) For any bank holding company to merge or consolidate with any other bank holding company; or
(6) For any bank holding company to take any action which would violate the Federal Bank Holding Company Act.
(b) The provisions of subsection (a) of this section shall not apply to:
(1) Shares acquired by a bank
(A) In good faith in a fiduciary capacity, except where shares are held under a trust that constitutes a company as defined in section two of this article and except as provided in subdivisions (2) and (3), subsection (b), section three of this article; or
(B) In the regular course of securing or collecting a debt previously contracted in good faith, but any shares acquired after the effective date of this act in securing or collecting any such previously contracted debt shall be disposed of within a period of five years from the date on which they were acquired; or
(2) Additional shares acquired by a bank holding company in a bank in which such bank holding company owned or controlled a majority of the voting shares prior to such acquisition. For the purpose of the preceding sentence, bank shares acquired after the effective date of this act shall not be deemed to have been acquired in good faith in a fiduciary capacity if the acquiring bank or company has sole discretionary authority to exercise voting rights with respect thereto, but in such instances acquisitions may be made without prior notice to the board if the board, upon notice and submission of information in form and content as it shall approve, filed within ninety days after the shares are acquired, approved retention or, if retention is disapproved, the acquiring bank disposes of the shares or its sole
discretionary voting rights within five years after issuance of the order of disapproval.

(c) If, within ninety days from the date of submission pursuant to subsection (a) of this section, after notice and a hearing pursuant to the provisions of section three, article three of this chapter, the board enters an order disapproving the proposed action described in subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5) or (a)(6) of this section, it shall be unlawful to take such action. The board shall disapprove the proposed action described in subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5) or (a)(6) of this section on the following grounds:

(1) The action would result in a monopoly, or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any section of this state;

(2) The action would have the effect in any section of the state of substantially lessening competition, or would tend to create a monopoly or in any other manner would be in restraint of trade, unless the anticompetitive effects of the proposed action are clearly outweighed in the public interest by the probable effect of the action in meeting the convenience and needs of the community to be served; or

(3) Taking into consideration the financial and managerial resources and further prospects of the company or companies and the banks concerned, the action would be contrary to the best interests of the shareholders or customers of the bank whose shares are affected by such action.

(d) It shall be unlawful for any bank holding company to acquire shares of a bank if such acquisition would cause the combined deposits of all banks in this state with respect to which it is a bank holding company to exceed ten percent of total bank deposits in this state as determined by the latest available reports of condition as compiled by the Federal Deposit Insurance Corporation.

(e) Notwithstanding any other provisions of this section, no proposed action described in subdivision (a)(1), (a)(2), (a)(3), (a)(4), (a)(5) or (a)(6) of this section shall be approved if such approval will permit any bank holding company or any subsidiary thereof to acquire, directly or indirectly, five percent or more of the interest in or assets of a bank or bank holding company located in this state if the operations of any banking subsidiary of such bank holding company are located outside this state.
(f) It shall be unlawful for any bank holding company to acquire any interest in a non-bank subsidiary which engages in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor.

(g) Nothing contained in this section shall affect the obligation of any person or company to comply with the provisions of any order of any court or the commissioner entered prior to the effective date of this act.

§31A-8A-5. Registration and reporting of bank holding companies; annual fee.

(a) For the purposes of this section, other than subsection (f), a "bank holding company" shall include, in addition to a bank holding company defined in subsection (a)(1), section three of this article, any other bank holding company subject to regulation under Title 12 United States Code, §§1841-1850 (being the act of Congress entitled the Bank Holding Company Act of 1956, as amended), which has acquired or established a place of business in this state or a subsidiary which has a place of business in this state.

(b) On the first day of July, one thousand nine hundred eighty-two, and annually thereafter on dates established by the commissioner, each bank holding company shall register with the commissioner on forms provided or prescribed by him, which shall include such information with respect to the financial condition, operation, management and inter-company relationships of the bank holding company and its subsidiaries and related matters as the commissioner may deem necessary or appropriate to carry out the purposes of this article.

(c) The commissioner is authorized to issue such regulations and orders as may be necessary to enable him or the board to administer and carry out the purposes of this article and prevent evasions thereof.

(d) The commissioner from time to time may require reports under oath to keep him informed as to whether the provisions of this article and such regulations and orders thereunder issued by him have been complied with, may make examinations of each bank holding company and each subsidiary thereof, and shall, as far as possible, use the reports of examination made by the Comptroller of the
Currency, Federal Deposit Insurance Corporation, or the
Board of Governors of the Federal Reserve System for the
purposes of this section.

(e) Bank holding companies and subsidiaries or affiliates
thereof shall be regulated, controlled and examined by the
commissioner to the same extent that he regulates, controls
and examines state banks and other financial institutions
under his jurisdiction. The commissioner is hereby
authorized to promulgate rules and regulations and
registration procedures for the regulation, examination and
control of bank holding companies doing business in this
state.

(f) On the first day of January, one thousand nine hundred
eighty-three, and thereafter annually on the same date, each
bank holding company shall pay an annual registration fee to
the commissioner based upon the total amount of bank
deposits in banks with respect to which such company is a
bank holding company. The commissioner shall prescribe by
regulations the annual registration fee, but such fee shall not
exceed ten dollars per million dollars in deposits rounded off
to the nearest million dollars. The payment of such
registration fee shall be accompanied by a report on forms
prescribed by the commissioner. The commissioner is
authorized to issue such regulations as may be necessary to
enable him to administer the collection of the registration fee.

Any violation of any provision of this article shall constitute
a misdemeanor offense, which, upon conviction thereof, shall
be punishable by applicable penalties as provided in section
fifteen, article eight of this chapter.

ARTICLE 8B. COMMUNITY REINVESTMENT ACT.

§31A-8B-1. Short title.
This article may be cited as the “West Virginia Community
Reinvestment Act.”

§31A-8B-2. Legislative findings and purpose.
The Legislature finds that:
(1) Banking institutions are required by law to
demonstrate that their deposit facilities serve the
convenience and needs of the communities in which they are
chartered to do business;
(2) The convenience and needs of communities include the need for credit services as well as deposit services; and
(3) Banking institutions have a continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.

(b) It is the purpose of this article to require the commissioner and the board to use their authority when examining or investigating banking institutions or their bank holding companies, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions.

§31A-8B-3. Application for a deposit facility; definition.
The term “application for a deposit facility” means an application to the commissioner or board for:
(a) A charter for a state bank;
(b) The relocation of the principal office or a branch of a state bank;
(c) The establishment of a branch bank in an unbanked area requiring approval under section twelve, article eight of this chapter;
(d) The merger or consolidation with, or the acquisition of the assets, or the assumption of the liabilities of a banking institution requiring approval under section seven, article seven of this chapter; or, the merger or consolidation with, or the acquisition of the assets, or the assumption of the liabilities of a banking institution requiring approval under section twelve, article eight of this chapter.
(e) The acquisition of shares in, or the assets of, a state banking institution requiring approval under article eight-a of this chapter.

§31A-8B-4. Assessment of the institution’s reinvestment in the community.
In connection with its examination or investigation of a banking institution or bank holding company, the commissioner or board shall:
(a) Assess the institution’s record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution; and
(b) Take such record into account in its evaluation of an application for a deposit facility by such institution.
§31A-B-5. Rules and regulations.

1 Regulations to carry out the purposes of this article shall be
2 promulgated by the commissioner.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 25th day of March, 1982.

Governor