WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED

HOUSE BILL No. 1194

(By Mr. Gilliam)

Passed February 24, 1983
In Effect Ninety Days From Passage
AN ACT to amend and reenact section twelve, article eight, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to certain limitations and restrictions imposed on branch banks; procedures for authorization of branch banks; authorization of limited off-premises banking facilities; penalties.

Be it enacted by the Legislature of West Virginia:

That section twelve, article eight, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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

4 (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 com-
munication terminal permitted by section twelve-b of this article: Provided, That at any time each such banking institution and each 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 no more than two 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 any such off-premises banking facility is located within five 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 article, 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 foregoing, 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 article 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.

(;) 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, 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 testi-
mony 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 institu-
tion 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 suc-
cessful operation of the proposed branch bank and of those
banks and branches thereof already established in the com-

(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.
(1) 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Jesse L. Wilke
Clerk of the Senate

Donald L. Hobbs
Clerk of the House of Delegates

Warren R. Maier
President of the Senate

John W. DeWitt
Speaker House of Delegates

The within is approved this the 10th day of March 1983.

John R. Dyer
Governor