

No: 190

APPROVED AND SIGNED BY THE GOVERNOR

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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

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ENROLLED

SENATE BILL NO. 190

(By Mr. Heck)

—•—

PASSED February 16 1983

In Effect ninety days from Passage



ENROLLED
Senate Bill No. 190

(BY MR. HECK)

[Passed February 16, 1983; in effect ninety days from passage.]

AN ACT to amend and reenact section forty-four, article six, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section ten, article seven, chapter thirty-one of said code; and to amend and reenact section four, article ten of said chapter thirty-one; and to amend and reenact section forty-three, article four, chapter thirty-one-a of said code, all relating to allowing building and loan associations, industrial banks, credit unions and banking institutions to offer negotiable order of withdrawal accounts to any officer, employee or agent of the United States, any state, county, municipality or political subdivision thereof who is depositing public funds.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 31. CORPORATIONS.

ARTICLE 6. BUILDING AND LOAN ASSOCIATIONS.

§31-6-44. Negotiable order of withdrawal accounts allowed.

1 Building and loan associations may permit the owner of a
2 deposit or account on which interest or dividends are paid
3 to make withdrawals by negotiable or transferable
4 instruments for the purpose of making transfers to third
5 parties if such deposit or account consists solely of funds in
6 which the entire beneficial interest is held by one or more
7 individuals or by an organization which is operated
8 primarily for religious, philanthropic, charitable,
9 educational or similar purposes and which is not operated
10 for a profit or if such deposit or account consists of public
11 funds deposited by an officer, employee or agent of the
12 United States, any state, county, municipality or political
13 subdivision thereof.

**ARTICLE 7. INDUSTRIAL BANKS AND INDUSTRIAL LOAN
COMPANIES.**

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

1 (a) The provisions of sections thirteen and fourteen,
2 article four, chapter thirty-one-a to the contrary
3 notwithstanding, and subject to the provisions of
4 subsection (b) of this section, in addition to the general
5 powers conferred upon corporations by the laws of this
6 state and subject to the restrictions, rules and regulations of
7 the federal deposit insurance corporation and the
8 provisions of chapter sixteen, Title 12 of the United States
9 Code, each industrial bank organized pursuant to this
10 article shall have power to exercise by its board of directors
11 or duly authorized officers or agents only those powers
12 conferred upon industrial loan companies under the
13 provisions of section eleven of this article and in addition
14 thereto shall have the power to receive deposits from the
15 general public only as long as such deposits are insured by
16 the federal deposit insurance corporation. An industrial
17 bank may permit the owner of a deposit or account on which
18 interest or dividends are paid to make withdrawals by
19 negotiable or transferable instruments for the purpose of
20 making transfers to third parties if such deposit or account
21 consists solely of funds in which the entire beneficial

22 interest is held by one or more individuals or by an
23 organization which is operated primarily for religious,
24 philanthropic, charitable, educational or similar purposes
25 and which is not operated for a profit or if such deposit or
26 account consists of public funds deposited by an officer,
27 employee or agent of the United States, any state, county,
28 municipality or political subdivision thereof.

29 (b) Notwithstanding the provisions of subsection (a) of
30 this section, an industrial bank under the provisions of this
31 article shall not:

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

36 (2) Hold at any one time the primary obligation or
37 obligations of any one person, firm or corporation, for more
38 than ten percent of the amount of the paid-up capital and
39 surplus of such industrial bank;

40 (3) Hold at any one time the obligation or obligations of
41 persons, firms or corporations purchased from any person,
42 firm or corporation in excess of twenty percent of the
43 aggregate paid-up capital and surplus of such industrial
44 bank;

45 (4) Make any loan or discount on the security of its own
46 capital stock unless such security or purchase shall be
47 necessary to prevent loss upon a debt previously contracted
48 in good faith. Stock so purchased or acquired shall be sold
49 at public or private sale or otherwise disposed of within
50 ninety days from the time of its purchase or acquisition;

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

54 (6) Deposit any of its funds except with a national or
55 state bank doing business in this state or with solvent
56 banking institutions in other states which are federally
57 insured;

58 (7) Pledge or hypothecate any of its securities or notes
59 owned by it to any of its creditors except in the same manner
60 as other banking institutions are permitted to do so under
61 either the provisions of chapter thirty-one-a of this code,
62 the rules and regulations of the commissioner of banking or
63 the rules and regulations of the federal deposit insurance

64 corporation and the provisions of chapter sixteen, Title 12
65 of the United States Code;

66 (8) Pay any fees, bonuses, commissions, rewards, or
67 other consideration to any person, firm or corporation for
68 the privilege of using any plan of operation, scheme or
69 device for the organization or carrying on of business under
70 this article, or the use of any name, trademark or copyright
71 to be so used; nor shall any industrial bank organized under
72 this article enter into any contract for such purpose or
73 purposes, or for the purpose of giving to or vesting in any
74 other corporation any power or authority over the
75 organization or management of such industrial bank
76 organized under this article;

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

79 (10) Sell or offer for sale evidences or certificates of
80 indebtedness; or

81 (11) Receive checking accounts or demand deposits.

ARTICLE 10. CREDIT UNIONS.

§31-10-4. Powers.

1 A credit union shall have the following powers:

2 (a) To receive the savings of its members either as
3 payment on shares, or as deposits (including the right to
4 conduct Christmas clubs, vacation clubs and other such
5 thrift organizations within the membership);

6 (b) To make loans to members for provident or
7 productive purposes;

8 (c) To make loans to cooperative society or other
9 organization having membership in the credit union;

10 (d) To deposit funds in state and national banks;

11 (e) To invest in any investment legal for savings banks;

12 (f) To borrow money as hereinafter indicated;

13 (g) To permit the owner of a share or deposit to make
14 withdrawals by negotiable or transferable instruments or
15 other orders for the purpose of making transfers to third
16 parties if such share or deposit is one in which the entire
17 beneficial interest is held by one or more individuals or
18 members or by an organization which is operated primarily
19 for religious, philanthropic, charitable, educational or
20 other similar purposes and which is not operated for profit
21 or if such deposit or account consists of public funds

22 deposited by an officer, employee or agent of the United
23 States, any state, county, municipality or political
24 subdivision thereof.

CHAPTER 31A. BANKS AND BANKING.

ARTICLE 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.

§31A-4-43. Negotiable order of withdrawal accounts allowed.

1 A banking institution may permit the owner of a deposit
2 or account on which interest or dividends are paid to make
3 withdrawals by negotiable or transferable instruments for
4 the purpose of making transfers to third parties if such
5 deposit or account consists solely of funds in which the
6 entire beneficial interest is held by one or more individuals
7 or by an organization which is operated primarily for
8 religious, philanthropic, charitable, educational or similar
9 purposes and which is not operated for a profit or if such
10 deposit or account consists of public funds deposited by an
11 officer, employee or agent of the United States, any state,
12 county, municipality or political subdivision thereof.

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

James L. Davis
.....
Chairman Senate Committee

James L. Davis
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

John C. Wicks
.....
Clerk of the Senate

Donald L. Stapp
.....
Clerk of the House of Delegates

Walter P. McHenry
.....
President of the Senate

John M. Lee, Jr.
.....
Speaker House of Delegates

The within *in approval* this the *28*
day of *Feb*, 1983.

John R. Rupp
.....
Governor

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AID: 32

OFFICE STATE
SECY. OF STATE