

710: 1194

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-10-83

\_\_\_\_\_

RECEIVED

MAR 4 2 30 PM '83

OFFICE OF THE GOVERNOR

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



# ENROLLED

HOUSE BILL No. 1194

(By Mr. William.....)



Passed February 24,..... 1983

In Effect Ninety Days From..... Passage



ENROLLED

# H. B. 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  
3 otherwise permitted by this section; or

4 (2) Engage in business at any place other than at its  
5 principal office in this state, at a branch bank in this state  
6 permitted by this section or at a customer bank com-

7 munication terminal permitted by section twelve-b of this  
8 article: *Provided*, That at any time each such banking in-  
9 stitution and each branch bank established by the purchase  
10 of the business and assets and assumption of the liabilities  
11 of, or merger or consolidation with, another banking in-  
12 stitution, may operate no more than two off-premises walk-in  
13 or drive-in banking facility, on or in conjunction with or entire-  
14 ly separate from a parking lot for the customers of such banking  
15 institution, for the purpose of receiving bank deposits of all  
16 kinds, cashing checks, making change, selling and issuing  
17 money orders and travelers checks and receiving payments on  
18 loans, savings and rental accounts, and for no other purposes,  
19 provided any such off-premises banking facility is located  
20 within five thousand feet of the banking house premises or  
21 branch bank premises of the banking institution operating such  
22 off-premises facility measured between the nearest points of  
23 the banking house premises and the premises on which such  
24 off-premises banking facility is located. Such off-premises  
25 banking facility shall be in addition to any branch bank  
26 permitted by this section.

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

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

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

40 (2) The purchase of the business and assets and assump-  
41 tion of the liabilities of, or merger or consolidation with,  
42 another banking institution.

43 Notwithstanding any other provision of this chapter to the  
44 contrary, subject to and in furtherance of the board's authority

45 under the provisions of subdivision (6), subsection (b),  
46 section two, article three of this chapter, and subsection (k)  
47 of this section, the board may approve or disapprove the  
48 application of any state banking institution to establish a  
49 branch bank.

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

53 (1) Not more than three branch banks by the purchase of  
54 the business and assets and assumption of the liabilities  
55 of, or merger or consolidation with, another banking institu-  
56 tion; and

57 (2) In addition to the foregoing, a banking institution  
58 may establish one branch by the construction, lease or acquisi-  
59 tion of a facility in an unbanked area within the county  
60 in which is situate its principal office. Not more than two  
61 branches may be established in this manner in each unbanked  
62 area. For purposes of this section an area is an "unbanked  
63 area" if no banking institution or branch bank created by  
64 merger and consolidation exists within the limits of an incor-  
65 porated municipality.

66 (e) The principal office of a banking institution on the  
67 effective date of this article shall continue to be the principal  
68 office of such banking institution for purposes of establishing  
69 branch banks under this section, notwithstanding any subse-  
70 quent change in the location of such banking institution's  
71 principal office.

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

81 (:) Any banking institution which is authorized to establish

82 branch banks pursuant to this section may provide the same  
83 banking services and exercise the same powers at each such  
84 branch bank as may be provided and exercised at its principal  
85 banking house.

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

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

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

116 (1) Notice of such hearing shall be given to the banking  
117 institution with respect to which the hearing is to be conducted  
118 in accordance with the provisions of section two, article  
119 seven, chapter twenty-nine-a of this code, and such hearing

120 and the administrative procedures in connection therewith shall  
121 be governed by all of the provisions of article five, chapter  
122 twenty-nine-a of this code, and shall be held at a time and  
123 place set by the board but shall not be less than ten nor  
124 more than thirty days after such notice is given.

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

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

136 (k) No state banking institution may establish a branch  
137 bank until the board, following an examination, investigation,  
138 notice and hearing, enters an order approving an application  
139 for that branch bank: *Provided*, That no such hearing shall be  
140 required with respect to any application to establish a branch  
141 bank which is approved by the board unless a banking institu-  
142 tion has timely filed a petition to intervene pursuant to  
143 subsection (h) of this section. The order shall be accompanied  
144 by findings of fact that:

145 (1) Public convenience and advantage will be promoted by  
146 the establishment of the proposed branch bank;

147 (2) Local conditions assure reasonable promise of suc-  
148 cessful operation of the proposed branch bank and of those  
149 banks and branches thereof already established in the com-  
150 munity;

151 (3) Suitable physical facilities will be provided for the  
152 branch bank; and

153 (4) The applicant state banking institution satisfies such  
154 reasonable and appropriate requirements as to sound financial  
155 condition as the commissioner or board may from time to time  
156 establish by regulation.

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

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

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

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

*James L. Davis*  
-----  
Chairman Senate Committee

*James H. Finner*  
-----  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Jack C. Hicks*  
-----  
Clerk of the Senate

*Donald L. Kopp*  
-----  
Clerk of the House of Delegates

*Warrent McNew*  
-----  
President of the Senate

*William H. See, Jr.*  
-----  
Speaker House of Delegates

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

*John P. Rhyne*  
-----  
Governor



RECEIVED

83 MAR 11 PM 12:43

OFFICE  
SECY. OF STATE