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Date 3-14-83

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

ENROLLED

HOUSE BILL No. 1359



Passed Folmary 25, 1983 In Effect Minsty Days From Passage BAD CAN

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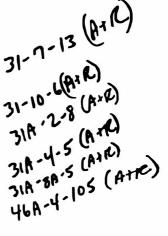
H. B. 1359

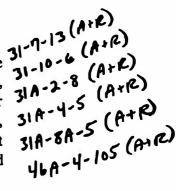
(By MR. FARLEY)

AN ACT to amend and reenact section thirteen, article seven, chapter thirty-one of the code of West Virginia, one thousand nine hun-dred thirty-one, as amended; to amend and reenact section six, article ten of said chapter thirty-one; to amend and reenact section eight, article two, chapter thirty-one-a of said code; to amend and reenact section five, article four of said chapter thirty-one-a; to amend and reenact section five, article eight-a of said chapter thirty-one-a; and to amend and reenact section one hundred five, article four, chapter forty-six-a of said code. all relating to financial institutions: determined and reenact section and the said code. all and banking; state banking institutions and services generally; bank holding companies; industrial banks and industrial loan companies; credit unions; supervised lenders; creating a special revenue account for the deposit of assessments, fees and expenses; authorizing the commissioner to assess certain financial institutions and bank holding companies; providing the commissioner with the authority to establish the assessments not to exceed certain maximums; and increasing certain fees.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article seven, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section six, article ten of said chapter thirty-one be amended and reenacted; that section eight, article two, chapter thirty-one-a of said code be amended and reenacted; that section five, article four of said chapter thirty-one-a be amended and





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reenacted; that section five, article eight-a of said chapter thirty-one-a be amended and reenacted; and that section one hundred five, article four, chapter forty-six-a of said code be amended and reenacted, all to read as follows:

CHAPTER 31. CORPORATIONS.

ARTICLE 7. INDUSTRIAL BANKS AND INDUSTRIAL LOAN COM-PANIES.

§31-7-13. Supervision and control.

1 (a) Every industrial loan company shall be subject to the 2 inspection, examination, supervision, jurisdiction and control 3 of the commissioner and the board in the same manner and 4 to the same extent as is the case of banking institutions or-5 ganized under the laws of this state under the provisions of 6 chapter thirty-one-a of this code insofar as the same are ap-7 plicable thereto. Where forty percent or more of the common 8 stock of any industrial loan company is owned or is held in 9 trust for the benefit of or by any other single firm, corporation, 10 partnership or association, such other firm, corporation, part-11 nership or association shall also be subject to the same juris-12 diction and powers of inspection, examination, supervision and 13 control of the commissioner and of the board in the same man-14 ner and to the same extent as if such other firm, corporation, 15 partnership or association were an industrial loan company.

16 (b) The commissioner of banking shall charge and collect 17 from each industrial loan company and pay into a special 18 revenue account for the department of banking an annual as-19 sessment payable on the first day of July, computed upon the 20 total assets of the industrial loan company shown on the report 21 of condition of the industrial loan company as of the last 22 business day in December of the previous year as is set out in 23 section eight, article two, chapter thirty-one-a of this code.

(c) Every industrial bank shall be subject to the inspection,
examination, assessment, supervision, jurisdiction and control
of the commissioner and of the board in the manner provided
in chapter thirty-one-a of this code and to the same extent as
is the case of other banking institutions organized under the
laws of this state and in addition, shall be subject to all of the

- 30 provisions, regulations and requirements of the federal deposit
- 31 insurance corporation including the right of inspection, exami-
- 32 nation, supervision and control as may be required by the
- 33 federal deposit insurance corporation.

ARTICLE 10. CREDIT UNIONS.

§31-10-6. Supervison by and reports to commissioner of banking; examinations; assessment; penalty for failure to report; revocation of certificates of approval.

1 (a) Credit unions shall be under the supervision of the com-2 missioner of banking. They shall report to him at least semiannually on or before the first day of January and the first day 3 4 of July of each calendar year, on blanks supplied by the said 5 commissioner for that purpose. Additional reports may be 6 required by said commissioner. Credit unions shall be exam-7 ined annually by the commissioner of banking, except that, if a credit union has assets of less than twenty-five thousand 8 9 dollars, he may accept the audit of a certified public account-10 ant in place of such examination.

11 (b) The commissioner of banking shall charge and collect 12 from each credit union and pay into a special revenue account 13 in the state treasury for the department of banking an annual assessment payable on the first day of July computed upon 14 15 the total assets of the credit union shown on the report of 16 condition of the credit union as of the last business day in 17 December of the previous year as is set out in section eight, 18 article two, chapter thirty-one-a of this code.

19 (c) For failure to file reports when due, unless excused 20 for cause, the credit union shall pay to the treasurer of the 21 state five dollars for each day of its delinquency. If the commissioner of banking determines that a credit union is vio-22 23 lating any provision of this article, or is insolvent, said com-24 missioner may serve notice on such credit union of his inten-25 tion to revoke the certificate of approval. If, for a period of fifteen days after such notice, such violation continues, the 26 27 commissioner of banking may revoke such certificate and take 28 possession of the business and property of such credit union 29 and maintain possession until such time as he shall permit it

- 30 to continue business or its affairs are finally liquidated. He may
- 31 take similar action if such report remains in arrears for more

32 than fifteen days.

CHAPTER 31A. BANKS AND BANKING.

ARTICLE 2. DEPARTMENT OF BANKING.

§31A-2-8. Commissioner's assessments and examination fund; assessments, costs and expenses of examinations; collection.

1 (a) All moneys collected by the commissioner from financial 2 institutions and bank holding companies for assessments, examination fees, investigation fees or other necessary expenses in-3 4 curred by the commissioner in administering such duties shall 5 be paid to the commissioner and paid by the commissioner to 6 the treasurer of the state to the credit of a special revenue account to be known as the "Commissioner's Assessment and 7 8 Examination Fund" which is hereby established. The assess-9 ments and fees paid into this account shall be appropriated by 10 law and used to pay the costs and expenses of the department of 11 banking and all incidental costs and expenses necessary for its 12 operations. At the end of each fiscal year, after the first day of 13 July, one thousand nine hundred eighty-three, if the fund con-14 tains a sum of money in excess of twenty percent of the appro-15 priated budget of the department of banking, the amount of the 16 excess shall be transferred to the general revenue fund of the 17 state. The Legislature may appropriate money to start the special revenue account. 18

(b) The commissioner of banking shall charge and collect
from each state banking institution or other financial institution or bank holding company and pay into a special revenue
account in the state treasury for the department of banking
assessments as follows:

(1) For each state banking institution, a semiannual assessment payable on the first day of January and the first day of July, each year, computed upon the total assets of the banking institution shown on the report of condition of the banking institution filed as of the preceding thirtieth day of June and thirty-first day of December respectively as follows:

Total Assets						
	Over Million	But Not Over Million	This Amount	Plus	Of Excess Over Million	
30	\$ 0	\$ 1	\$ 0	.001000	0	
31	1	10	1,000	.000125	1	
32	10	50	2,125	.000095	10	
33	50	100	5,925	.000060	50	
34	100	500	8,925	.000050	100	
35	500	1,000	28,925	.000045	500	

36 (2) For each industrial loan company an annual assessment
37 as provided for in section thirteen, article seven, chapter
38 thirty-one of this code, as follows:

Total Assets

	Over	But Not Over	This Amount	Plus	Of Excess Over
39	\$ 0	\$ 1,000,000	800		
40	1,000,000	5,000,000	800	.000400	1,000,000
41	5,000,000	10,000,000	2,400	.000200	5,000,000
42	10,000,000		4,200	.000100	10,000,000

43 If an industrial loan company's records or documents are
44 maintained in more than one location in this state, then eight
45 hundred dollars may be added to the assessment for each ad46 ditional location.

47 (3) For each credit union, an annual assessment as provid48 ed for in section six, article ten, chapter thirty-one of this
49 code as follows:

	I otal A				
	Over	But Not Over	This Amount	Plus	Of Excess Over
50	\$ 0	\$ 100,000	100		
51	100,000	500,000	300		
52	500,000	1,000,000	500		
53	1,000,000	5,000,000	500	.000400	1,000,000
54	5,000,000	10,000,000	2,100	.000200	5,000,000
55	10,000,000	1	3,100	.000100	10,000,000

Total Assets

6

56 (4) For each bank holding company, an annual assessment
57 shall be made as provided for in section five, article eight-a,
58 chapter thirty-one-a of this code. Such annual assessment shall
59 not exceed ten dollars per million dollars in deposits rounded
60 off to the nearest million dollars.

61 (5) For each supervised lender, an annual assessment as 62 provided for in section one hundred five, article four, chapter 63 forty-six-a of this code. Such annual assessment shall not ex-64 ceed one hundred dollars on the first twenty-five thousand 65 dollars of total outstanding loan balances and installment sales 66 contract balances less unearned finance charges plus forty 67 cents per thousand dollars on the remaining outstanding bal-68 ances as of the preceding calendar year-end.

69 (6) The commissioner shall, during the month of June, one 70 thousand nine hundred eighty-three, and each December and 71 each June thereafter, prepare and send to each state banking in-72 stitution a statement of the amount of the assessment due. The 73 commissioner shall, further, during the month of June, one 74 thousand nine hundred eighty-three, and each June thereafter, 75 prepare and send to each industrial loan company, each state 76 credit union and each supervised lender a statement of the 77 amount of the assessment due. Such assessments shall be charg-78 ed for the first day of July, one thousand nine hundred eighty-79 three, at the amounts as scheduled. The commissioner shall, fur-80 ther, during the month of January, one thousand nine hundred 81 eighty-four, and each January thereafter, prepare and send to 82 each bank holding company a statement of the amount of the 83 assessment due. Such bank holding company assessments shall 84 be charged for the last day of January, one thousand nine hun-85 dred eighty-four, at the amounts as scheduled in this subsection.

86 Subsequent assessments shall be prescribed annually, not 87 later than the fifteenth day of June, by written order of the 88 commissioner, but shall not exceed the maximums as set forth 89 in this subsection. In setting such assessments the primary con-90 sideration shall be the amount appropriated by the Legislature 91 for the department of banking for the corresponding annual 92 period. Reasonable notice of such assessments shall be made 93 to all interested parties. All orders of the commissioner for 94 the purpose of setting assessments shall not be subject to the
95 provisions of the West Virginia Administrative Procedures
96 Act, chapter twenty-nine-a of this code.

97 (c) For making an examination within the state of any other 98 financial institution for which assessments are not provided by 99 this code, the commissioner of banking shall charge and col-100 lect from such other financial institution and pay into the 101 special revenue account for the department of banking the 102 actual and necessary costs and expenses incurred in connec-103 tion therewith, as fixed and determined by the commissioner.

(d) If the records of an institution are located outside this 104 105 state, the institution at its option shall make them available to 106 the commissioner at a convenient location within this state, or 107 pay the reasonable and necessary expenses for the commis-108 sioner or his representatives to examine them at the place where 109 they are maintained. The commissioner may designate repre-110 sentatives, including comparable officials of the state in which the records are located, to inspect them on his behalf. 111

(e) The commissioner of banking may maintain an action for
the recovery of all such assessments, costs and expenses in any
court of competent jurisdiction.

ARTICLE 4. BANKING INSTITUTIONS AND SERVICES GENERALLY. §31A-4-5. Requirements and procedure for incorporation of state banks.

1 A state bank may be organized by five or more incorpora-2 tors, a majority of whom shall be residents of the state of 3 West Virginia. Such banking institution shall have as a part of its corporate name or title one or more of the following 4 5 words indicative of the business which it is authorized to conduct, namely, "bank," "banking company," "banking asso-6 ciation," "trust company," "banking and trust company" or 7 "bank and trust company." 8

9 The incorporators shall file with the board an agreement 10 of incorporation, in duplicate, following generally the form 11 prescribed by the secretary of state for chartering corporations 12 under provisions of article one, chapter thirty-one of this

13 code. The information set forth in the agreement shall include14 the following:

15 (1) The name of the proposed bank;

16 (2) The community and county in which the bank is to be
17 located, together with the post-office address of the place
18 of business of the bank;

19 (3) Whether such bank proposes also to engage in the20 trust business;

(4) The name, residence and occupation of each incorporator, and the amount of capital stock subscribed and paid
for by each;

(5) The names of the persons who are to serve as officers
and directors of the banking institution and the official position
proposed to be held by each; and

27 (6) The total authorized capital stock of the institution.

28 The agreement of incorporation shall be signed and ac-29 knowledged by each of the incorporators and, when filed with the board, shall be accompanied by the statutory cor-30 poration charter fees, and an examination and investigation 31 32 fee of two thousand five hundred dollars payable to the 33 board. When transmitting the agreement to the board, the 34 incorporators shall designate by name and give the address of the attorney, agent or other responsible party with whom 35 the board may communicate, on whom the board may call 36 for further information, and to whom the board may officially 37 report as to action on the agreement so filed with him. The 38 39 agreement shall constitute and may be considered and treated 40 by the board as an application for the board's approval to incorporate and organize a banking institution in this state. 41

ARTICLE 8A. ACQUISITION OF BANK SHARES.



§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 subdivision (1), sub-

4 section (a), section three of this article, any other bank
5 holding company subject to regulation under Title 12 United
6 States Code, §§1841-1850 (being the act of Congress entitled
7 the Bank Holding Company Act of 1956, as amended),
8 which has acquired or established a place of business in this
9 state or a subsidiary which has a place of business in this
10 state.

11 (b) On the first day of July, one thousand nine hundred 12 eighty-two, and annually thereafter on dates established by 13 the commissioner, each bank holding company shall register 14 with the commissioner on forms provided or prescribed by him, which shall include such information with respect to 15 the financial condition, operation, management and inter-16 17 company relationships of the bank holding company and its 18 subsidiaries and related matters as the commissioner may deem necessary or appropriate to carry out the purposes of 19 20 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.

25 (d) The commissioner from time to time may require 26 reports under oath to keep him informed as to whether the 27 provisions of this article and such regulations and orders 28 thereunder issued by him have been complied with, may make 29 examinations of each bank holding company and each sub-30 sidiary thereof, and shall, as far as possible, use the reports 31 of examination made by the comptroller of the currency, 32 federal deposit insurance corporation, or the board of govern-33 ors of the federal reserve system for the purposes of this 34 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

41 for the regulation, examination and control of bank holding42 companies doing business in this state.

43 (f) The commissioner of banking shall charge and collect 44 from each bank holding company and pay into a special 45 revenue account in the state treasury for the department of 46 banking an annual assessment payable on the last day of 47 January computed upon the total deposits of the bank hold-48 ing company shown on the consolidated financial statement as of the last business day in December of the previous 49 50 year as is set out in section eight, article two, chapter thirty-51 one-a of this code. The payment of such registration fee 52 shall be accompanied by a report on forms prescribed by the 53 commissioner.

CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT.

ARTICLE 4. SUPERVISED LENDERS.

§46A-4-105. Examinations; assessments and investigations.

1 (1) The commissioner shall examine annually the loans, 2 business and records of every licensee. In addition, for the 3 purpose of discovering violations of this article or securing in-4 formation lawfully required, the attorney general or the com-5 missioner may at any time investigate the loans, business and records of any supervised lender. For these purposes he shall 6 7 have free and reasonable access to the offices, places of business 8 and records of the lender.

9 (2) If the lender's records are located outside this state, 10 the lender at his option shall make them available to the com-11 missioner at a convenient location within this state, or pay the 12 reasonable and necessary expenses for the commissioner or 13 his representatives to examine them at the place where they are maintained. The commissioner may designate representa-14 15 tives, including comparable officials of the state in which the 16 records are located, to inspect them on his behalf.

17 (3) For the purposes of this section, the commissioner may
18 administer oaths or affirmations, and upon his own motion or
19 upon request of any party, may subpoena witnesses, compel

their attendance, adduce evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(4) Upon failure without lawful excuse to obey a subpoena
or to give testimony and upon reasonable notice to all persons
affected thereby, the commissioner may apply to any circuit
court of this state for an order compelling compliance.

31 (5) The commissioner of banking shall charge and collect 32 from each supervised lender and pay into a special revenue 33 account in the state treasury for the department of banking an 34 annual assessment payable on the first day of July computed 35 upon the total outstanding loan balances and installment sales 36 contract balances less unearned finance charges as of the pre-37 ceding calendar year-end as is set out in section eight, article 38 two, chapter thirty-one-a of this code.

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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled. Annes L. David Chairman Senate Committee Chairman House Committee

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Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate and Clerk of the House of President of the Senate Speaker House of Delegates this the The within Y day of, 1983. Governor C-641

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