WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED

HOUSE BILL No. 1706

(By Mr. Del. Flanigan and Del. Phillips)

Passed March 27, 1985

In Effect From Passage
AN ACT to amend and reenact section four, article eight-a, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to acquisition by a bank holding company, or any other company, of any banking institution located in the state of West Virginia that does not both accept deposits that the depositor has a legal right to withdraw on demand and engage in the business of making commercial loans.

Be it enacted by the Legislature of West Virginia:

That section four, article eight-a, 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 8A. ACQUISITION OF BANK SHARES.

§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 section 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 section 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 subdivision (1), (2), (3), (4),
(5) or (6), subsection (a) of this section, it shall be unlawful
to take such action. The board shall disapprove the proposed
action described in subdivision (1), (2), (3), (4), (5) or (6),
subsection (a) 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 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) Notwithstanding any other provisions of this section, no
proposed action described in subdivision (1), (2), (3), (4), (5)
or (6), subsection (a) 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.

(e) Notwithstanding any other provision of law, no bank holding company, or any other company, shall establish, acquire or control any banking institution as defined in section three of this article, when said banking institution does not both (i) accept deposits that the depositor has a legal right to withdraw on demand and (ii) engage in the business of making commercial loans.

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

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 10th day of April, 1985.

Governor