

No: 184

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

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## ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 184

(By Senator *Tonkovich, Mr. President, et al*)

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PASSED ..... *February 26,* ..... 1986

In Effect ..... *2-20-86* ..... Passage



**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**Senate Bill No. 184**

(SENATORS TONKOVICH, MR. PRESIDENT AND TUCKER, *original*  
*sponsors*)

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[Passed February 26, 1986; in effect from passage.]

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AN ACT to amend and reenact sections three, five and six, article one-a, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section eight, all relating to limitations on investment in linked deposits; acceptance or rejection of loan package; deposit agreement, rate of loan; certification and monitoring of compliance and reports, and penalties.

*Be it enacted by the Legislature of West Virginia:*

That sections three, five and six, article one-a, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section eight, all to read as follows:

**ARTICLE 1A. LINKED DEPOSIT PROGRAM.**

**§12-1A-3. Limitations on investment in linked deposits.**

1 The state treasurer may invest in linked deposits:  
2 *Provided*, That at the time of placement of the linked  
3 deposit not more than ten percent of the state's total  
4 investment portfolio is so invested. The total amount so  
5 deposited at any one time shall not exceed, in the aggregate,  
6 two hundred twenty-five million dollars, of which fifty  
7 million dollars shall be provided for linked deposits to West  
8 Virginia flood victims from the twenty-nine counties  
9 eligible for federal disaster aid as listed by the federal  
10 emergency management agency.

**§12-1A-5. Acceptance or rejection of loan package; deposit agreement.**

1 (a) The state treasurer may accept or reject a linked  
2 deposit loan package or any portion thereof, based on the  
3 ratio of state funds to be deposited to jobs sustained or  
4 created.  
5 (b) The state treasurer shall reject any linked deposit  
6 loan package if the small business requesting such loan is  
7 not in good standing with the state tax department,  
8 department of employment security and the workers'  
9 compensation fund, and these agencies shall provide the  
10 state treasurer with such information as to the standing of  
11 each small business loan applicant, notwithstanding any  
12 provision of this code to the contrary.  
13 (c) Any linked deposit loan package that is being made  
14 to refinance an existing debt, or any portion thereof, must  
15 meet one of the following criteria:  
16 (1) The small business can demonstrate in good faith  
17 that it is experiencing a substantial loss in its current (fiscal  
18 or calendar) tax year period;  
19 (2) The small business recently experienced a natural  
20 disaster and suffered unreimbursable casualty losses;  
21 (3) The small business has filed to recover under the  
22 federal bankruptcy act and meets the criteria in (1) above;  
23 or  
24 (4) The small business can provide compelling  
25 information to the state treasurer that jobs will be saved  
26 and/or created as a result of loan refinancing.

27 (d) Upon acceptance of the linked deposit loan package  
 28 or any portion thereof, the state treasurer may place  
 29 certificates of deposit with the eligible lending institution  
 30 at three percent below current market rates, as determined  
 31 and calculated by the state treasurer. Upon acceptance of  
 32 the linked deposit loan package for flood victims or any  
 33 portion thereof, the state treasurer may place certificates of  
 34 deposit with the eligible lending institution at five percent  
 35 below current market rates, as determined and calculated  
 36 by the state treasurer. When necessary, the treasurer may  
 37 place certificates of deposit prior to acceptance of a linked  
 38 deposit loan package.

39 (e) The eligible lending institution shall enter into a  
 40 deposit agreement with the state treasurer, which shall  
 41 include requirements necessary to carry out the purposes of  
 42 this article. Such requirements shall reflect the market  
 43 conditions prevailing in the eligible lending institution's  
 44 lending area. The agreement may include a specification of  
 45 the period of time in which the lending institution is to lend  
 46 funds upon the placement of a linked deposit and shall  
 47 include provisions for the certificates of deposit to be  
 48 placed for up to two-year maturities that may be renewed  
 49 for up to an additional two years. Interest shall be paid at  
 50 the times determined by the state treasurer.

**§12-1A-6. Rate of loan; certification and monitoring of  
 compliance; report.**

1 (a) Upon the placement of a linked deposit with an  
 2 eligible lending institution, such institution is required to  
 3 lend such funds to each approved eligible small business  
 4 listed in the linked deposit loan package required in  
 5 subsection (d), section four of this article, and in accordance  
 6 with the deposit agreement required by subsection (c),  
 7 section five of this article. The loan shall be at three percent  
 8 below the present borrowing rate applicable to each  
 9 business. The loan shall be at five percent below the present  
 10 borrowing rate applicable to each flood victim. A  
 11 certification of compliance with this section in the form and  
 12 manner as prescribed by the state treasurer shall be  
 13 required of the eligible lending institution.

14 (b) The state treasurer shall take any and all steps  
 15 necessary to implement the linked deposit program and

16 monitor compliance of eligible lending institutions and  
17 eligible small businesses. The state treasurer and the  
18 industrial development authority shall notify each other at  
19 least quarterly of the names of the businesses receiving  
20 financial assistance from their respective programs.

21 By the first day of January, April, July and October of  
22 each year, the treasurer shall report on the linked deposit  
23 program for the preceding calendar quarter to the governor  
24 and to the joint committee on government and finance. The  
25 reports shall set forth the linked deposits made by the state  
26 treasurer under the program during the quarter and shall  
27 include information regarding the nature, terms and  
28 amounts of the loans upon which the linked deposits were  
29 based and the eligible small business to which the loans  
30 were made.

**§12-1A-8. Penalties for violation of article.**

1 Any violation of this article shall be deemed a  
2 misdemeanor and any person convicted thereof shall be  
3 fined not less than one hundred nor more than five hundred  
4 dollars and imprisoned in the county jail not less than one  
5 month nor more than one year.

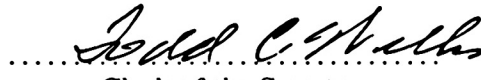
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
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Chairman Senate Committee

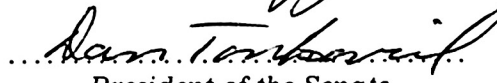
  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

  
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Clerk of the Senate

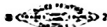
  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker House of Delegates

The within  this the 8th  
day of March, 1986.

  
.....  
Governor



PRESENTED TO THE  
PRESENTED TO THE

GOVERNOR

Date 3/3/86

Time 2:56 p.m.

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SECRETARY OF STATE

FILED IN 12673107  
OFFICE OF THE SECRETARY  
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THIS DATE 3/11/86