WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1986

ENROLLED
Committee Substitute for
SENATE BILL NO. 184

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

PASSED February 26, 1986
In Effect Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 184
(SENATORS TONKOVICH. MR. PRESIDENT AND TUCKER, original sponsors)

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

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.
(d) Upon acceptance of the linked deposit loan package or any portion thereof, the state treasurer may place certificates of deposit with the eligible lending institution at three percent below current market rates, as determined and calculated by the state treasurer. Upon acceptance of the linked deposit loan package for flood victims or any portion thereof, the state treasurer may place certificates of deposit with the eligible lending institution at five percent below current market rates, as determined and calculated by the state treasurer. When necessary, the treasurer may place certificates of deposit prior to acceptance of a linked deposit loan package.

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

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

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

(b) The state treasurer shall take any and all steps necessary to implement the linked deposit program and
monitor compliance of eligible lending institutions and eligible small businesses. The state treasurer and the industrial development authority shall notify each other at least quarterly of the names of the businesses receiving financial assistance from their respective programs.

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

§12-IA-8. Penalties for violation of article.

Any violation of this article shall be deemed a misdemeanor and any person convicted thereof shall be fined not less than one hundred nor more than five hundred dollars and imprisoned in the county jail not less than one month nor more than one year.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within .................................this the ................

day of .................................., 1986.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/3/86
Time 2:54 p.m.