

No: 1883

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

— ● —

ENROLLED

HOUSE BILL No. 1883

(By Delegate Wiedebusch)

— ● —

Passed March 7, 1986

In Effect Ninety days from Passage

ENROLLED
H. B. 1883
(By DELEGATE WIEDEBUSCH)

[Passed March 7, 1986; in effect ninety days from passage.]

AN ACT to amend chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nineteen, relating to creating a county linked deposit program; definitions; legislative findings; authority to invest; limitations on investment in linked deposits; loan cap; applications for loan; priorities; loan package; acceptance or rejection of loan package; deposit agreement; rate of loan; certification and monitoring of compliances; reports; liability of the county commission or its agent; and penalties.

Be it enacted by the Legislature of West Virginia:

That chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article nineteen, to read as follows:

ARTICLE 19. COUNTY LINKED DEPOSIT PROGRAM.

§7-19-1. Definitions.

- 1 (a) "Agent" means the county commission or, where
2 created, the county economic development program or
3 the county economic development agency.
- 4 (b) "Eligible lending institution" means a financial
5 institution that is eligible to make commercial loans, is
6 a public depository of county funds and agrees to

7 participate in the linked deposit program.

8 (c) "Eligible small business" means any business
9 which employs fifty or fewer employees or has gross
10 annual receipts of two million dollars or less.

11 (d) "Linked deposit" means a certificate of deposit
12 placed by the agent with an eligible lending institution
13 at up to and including five percent below current
14 market rates, as determined and calculated by the
15 agent, provided the institution agrees to lend the value
16 of such deposit, according to the deposit agreement
17 provided for by this article, to eligible small businesses
18 at up to and including five percent below the present
19 borrowing rate applicable to each specific business at
20 the time of the deposit of county funds in the institution.

§7-19-2. Legislative findings.

1 The Legislature finds that many small businesses
2 throughout the state are experiencing economic stagna-
3 tion or decline, that high interest rates have caused
4 small businesses in this state to suffer disproportionately
5 in profitability and competition and that such high
6 interest rates have fostered a serious increase in
7 unemployment. The linked deposit program provided
8 for by this article is intended to provide a countywide
9 availability of lower cost funds for lending purposes that
10 will materially contribute to the economic revitalization
11 of this state. Accordingly, it is declared to be the public
12 policy of the state to create through the linked deposit
13 program an availability of lower-cost funds to inject
14 needed capital into the business community, sustain or
15 improve business profitability and protect the jobs of
16 citizens of this state. This program is created to
17 supplement the state linked deposit program.

**§7-19-3. Authority to invest; limitations on investment in
linked deposits; loan cap.**

1 County commissions are hereby authorized and
2 empowered, in addition to all other powers and duties
3 now conferred by law upon county commissions, to
4 invest in linked deposits: *Provided*, That at the time of
5 placement of the linked deposit not more than ten

6 percent of the county's total investment portfolio is so
7 invested. The amount of a reduced rate loan may not
8 exceed ten thousand dollars per job created or preserved
9 as determined by the agent, subject to the availability
10 of funds. This program is created to supplement the
11 state linked deposit program and the agent is authorized
12 to coordinate county linked deposits with the state
13 program.

§7-19-4. Applications for loan; priorities; loan package.

1 (a) An eligible lending institution that desires to
2 receive a linked deposit shall accept and review
3 applications for loans from eligible small businesses.
4 The lending institution shall apply all usual lending
5 standards to determine the credit worthiness of each
6 eligible small business making an application.

7 (b) An eligible small business shall certify on its loan
8 application that the reduced rate loan will be used
9 exclusively to create new jobs or preserve existing jobs
10 and employment opportunities. A reduced rate loan
11 shall not be used to refinance existing debt, unless such
12 action is done to prevent bankruptcy. Whoever know-
13 ingly makes a false statement concerning such applica-
14 tion shall be prohibited from participating in the linked
15 deposit loan program and shall be subject to the
16 penalties provided for in section eight of this article.

17 (c) In considering which eligible small businesses
18 should receive reduced rate loans, the eligible lending
19 institution shall give priority to businesses in areas
20 which are economically depressed and to the number of
21 jobs to be created or preserved by the receipt of such
22 loan.

23 (d) The eligible lending institution shall forward to
24 the agent a linked deposit loan package, in the form and
25 manner prescribed by the agent. The package shall
26 include such information as required by the agent,
27 including the amount of the loan requested and the
28 number of jobs to be created or sustained by each
29 eligible small business. The institution shall certify that
30 each applicant is an eligible small business, and shall
31 certify the present borrowing rate applicable to each

32 specific eligible business.

§7-19-5. Acceptance or rejection of loan package; deposit agreement.

1 (a) The agent may accept or reject a linked deposit
2 loan package or any portion thereof, based on the ratio
3 of county funds to be deposited to jobs to be sustained
4 or created.

5 (b) Upon acceptance of the linked deposit loan
6 package or any portion thereof, the agent may place
7 certificates of deposit with the eligible lending institu-
8 tion at up to and including five percent below current
9 market rates as determined by the agent. When
10 necessary, the agent may place certificates of deposit
11 prior to acceptance of a linked deposit loan package.

12 (c) The eligible lending institution shall enter into a
13 deposit agreement with the agent, which agreement
14 shall include requirements necessary to carry out the
15 purposes of this article. Such requirements shall reflect
16 the market conditions prevailing in the eligible lending
17 institution's lending area. The agreement may include
18 a specification of the period of time in which the lending
19 institution is to lend funds upon the placement of a
20 linked deposit and shall include provisions for the
21 certificates of deposit to be placed for up to two-year
22 maturities that may be renewed for up to an additional
23 two years. Interest shall be paid at the times determined
24 by the agent.

§7-19-6. Rate of loan; certification and monitoring of compliance; reports.

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

11 required of the eligible lending institution in the form
12 and manner prescribed by the agent.

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

21 By the first day of January, April, July and October
22 of each year, the agent shall report on the linked deposit
23 program from the preceding calendar quarter to the
24 county commission. The report shall set forth the linked
25 deposits made by the county under the program during
26 the quarter and shall include information regarding the
27 nature, terms and amounts of the loans upon which the
28 linked deposits were based and each small business to
29 which a loan was made.

§7-19-7. Liability of the county commission or its agent.

1 Neither the county commission or its agent is liable
2 in any manner to any eligible lending institution for
3 payment of the principal or interest on the loan to an
4 eligible small business. A delay in payment or default
5 on the part of an eligible small business does not in any
6 manner affect the deposit agreement between the
7 eligible lending institution and the county.

§7-19-8. 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
4 hundred dollars and imprisoned in the county jail not
5 less than one month nor more than one year.

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

Bruce O. Williams
.....
Chairman Senate Committee

Floyd Fuller
.....
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Scott C. Welch
.....
Clerk of the Senate

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

Ben Tombari
.....
President of the Senate

Joseph P. Allright
.....
Speaker of the House of Delegates

The within *approved* this the *26th*
March day of, 1986.

Arch. Bragg
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/86

Time 4:45 p.m.

PERFORM

1986 MAR 23 PM 6 57

STANDARD OF CARE

FILED IN THE OFFICE OF
SPEECH AND HEARING
WEST VIRGINIA

THIS DATE 3/26/86