WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

ENROLLED

Committee Substitute for
SENATE BILL NO. 69

(By Senators: Sudder and Marchini)

PASSED March 14, 1987

In Effect ninety days from Passage
AN ACT to amend and reenact sections three and four, article one-a, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to linked deposit loans; loan cap; application for loan priority; loan package; and eligibility criteria.

Be it enacted by the Legislature of West Virginia:

That sections three and four, article one-a, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1A. LINKED DEPOSIT PROGRAM.

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

1 (a) The state treasurer may invest in linked deposits:

Provided, That at the time of the placement of the linked deposit not more than ten percent of the state's total investment portfolio is so invested. The total amount so deposited at any one time shall not exceed, in the aggregate, two hundred twenty-five million dollars, of which fifty million dollars shall be provided for linked deposits to West Virginia flood victims from the twenty-nine counties eligible for federal disaster aid as listed by the federal
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emergency management agency: Provided, however, That after the first day of April, one thousand nine hundred eighty-seven, the state treasurer shall reserve ten million dollars of the unallocated aggregate for linked deposits to such West Virginia flood victims and may use the remaining balance of such unallocated moneys in the regular linked deposit program: Provided further, That after the first day of January, one thousand nine hundred eighty-eight, the remaining balance of unallocated moneys may be used in the regular linked deposit program.

(b) Small business linked deposit funds shall not be used to provide each applicant with more than fifty thousand dollars for a reduced rate loan for each nonmanufacturing job created or preserved or provide more than one hundred twenty-five thousand dollars for a reduced rate loan for each manufacturing job created or preserved. This subsection shall not preclude any flood victim from applying for a linked deposit under the flood program.

§12-1A-4. Applications for loan priority; loan package.

(a) An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible small businesses. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible small business.

(b) An eligible small business shall certify on its loan application that the reduced rate loan will be used exclusively to create new jobs or preserve existing jobs and employment opportunities. An eligible small business shall make a sworn affidavit stating that the reduced rate loan will not be used to refinance an existing debt, unless it can be demonstrated to show the business will fail if not granted such loan. Whoever knowingly makes a false statement concerning such application shall be prohibited from entering into the linked deposit loan program.

(c) In considering which eligible small businesses should receive reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area in which the business is located, including whether the business is located in a county declared to be a federal disaster area by the Federal Emergency Management Agency, and the number of jobs to be created. If jobs are to
be preserved by the receipt of such loan, the eligible lending
institution shall decide between small businesses that had
no profit in the last tax year verified by independent audit
filed for relief under the federal bankruptcy laws in the past
year or has been adversely affected by a nonreimbursed
casualty loss due to a natural disaster. An eligible small
business shall make a sworn affidavit stating that one of the
above mentioned circumstances applies to their business.
There shall also be a continuous internal audit conducted
by the state treasurer which shall be made available to the
Legislature annually.

(d) The eligible financial institution shall forward to the
state treasurer a linked deposit loan package, in the form
and manner as prescribed by the state treasurer. The
package shall include such information as required by the
state treasurer, including the amount of the loan requested
and the number of jobs to be created or sustained by each
eligible small business. The institution shall certify that
each applicant is an eligible small business, and shall, for
each business, certify the present borrowing rate applicable
to each specific eligible business.
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 ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within Approved this the 28th day of March, 1987.

Governor