

4160

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988



ENROLLED

HOUSE BILL No. 4160

(By ~~Mr.~~ Delegate Bradley)



Passed March 12, 1988

In Effect Ninety Days From Passage

ENROLLED
H. B. 4160
(By DELEGATE BRADLEY)

[Passed March 12, 1988; in effect ninety days from passage.]

AN ACT to amend and reenact section twelve, article eight, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to banks and banking; procedure for authorization of branch banks; penalties; and providing that acceptance of a deposit at the offices of any affiliate bank for credit to the customer's account at any other affiliate bank of the same bank holding company is permissible and does not constitute branch banking.

Be it enacted by the Legislature of West Virginia:

That section twelve, article eight, 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 8. HEARINGS; ADMINISTRATIVE PROCEDURES; JUDICIAL REVIEW; UNLAWFUL ACTS; PENALTIES.

§31A-8-12. Procedure for authorization of branch banks; penalties for violation of section.

1 No banking institution shall engage in business at any
2 place other than at its principal office in this state, at
3 a branch bank in this state permitted by this section as
4 a customer bank communication terminal permitted by
5 section twelve-b of this article or at any loan origination
6 office permitted by section twelve-c of this article:
7 *Provided, That acceptance of a deposit at the offices of*

8 any subsidiary, as defined in section two, article eight-
9 a of this chapter, for credit to the customer's account at
10 any other subsidiary of the same bank holding company
11 is permissible and does not constitute branch banking.

12 Any banking institution which on January one, one
13 thousand nine hundred eighty-four, was authorized to
14 operate an off-premises walk-in or drive-in facility,
15 pursuant to the law then in effect, may, as of the seventh
16 day of June, one thousand nine hundred eighty-four,
17 operate such facility as a branch bank and it shall not
18 be necessary, for the continued operation of such branch
19 bank, to obtain additional approvals, notwithstanding
20 the provisions of subsection (d) of this section and
21 subdivision (6), subsection (b), section two, article three
22 of this chapter.

23 (b) Except for a bank holding company, it shall be
24 unlawful for any individual, partnership, society,
25 association, firm, institution, trust, syndicate, public or
26 private corporation, or any other legal entity, or
27 combination of entities acting in concert, to directly or
28 indirectly own, control or hold with power to vote,
29 twenty-five percent or more of the voting shares of each
30 of two or more banks, or to control in any manner the
31 election of a majority of the directors of two or more
32 banks.

33 (c) A banking institution may establish branch banks
34 either by:

35 (1) The construction, lease or acquisition of branch
36 bank facilities as follows:

37 (A) After the seventh of June, one thousand nine
38 hundred eighty-four, within the county in which that
39 banking institution's principal office is located or within
40 the county in which that banking institution had prior
41 to January first, one thousand nine hundred eighty-four,
42 established a branch bank, pursuant to subdivision (2)
43 of this subsection; and

44 (B) After the thirty-first of December, one thousand
45 nine hundred eighty-six, within any county in this state;
46 or

47 (2) The purchase of the business and assets and
48 assumption of the liabilities of, or merger or consolida-
49 tion with, another banking institution.

50 (d) Notwithstanding any other provision of this
51 chapter to the contrary, subject to and in furtherance
52 of the board's authority under the provisions of subdivi-
53 sion (6), subsection (b), section two, article three of this
54 chapter, and subsection (g) of this section, the board may
55 approve or disapprove the application of any state
56 banking institution to establish a branch bank.

57 (e) The principal office of a banking institution as of
58 the seventh day of June, one thousand nine hundred
59 eighty-four, shall continue to be the principal office of
60 such banking institution for purposes of establishing
61 branch banks under this section, notwithstanding any
62 subsequent change in the location of such banking
63 institution's principal office.

64 (f) Any banking institution which is authorized to
65 establish branch banks pursuant to this section may
66 provide the same banking services and exercise the
67 same powers at each such branch bank as may be
68 provided and exercised at its principal banking house.

69 (g) The board shall, upon receipt of any application
70 to establish a branch bank, provide notice of such
71 application to all banking institutions. A banking
72 institution may, within ten days after receipt of such
73 notice, file a petition to intervene and shall, if it so files
74 such petition, thereupon become a party to any hearing
75 relating thereto before the board.

76 (h) The commissioner shall prescribe the form of the
77 application for a branch bank and shall collect an
78 examination and investigation fee of one thousand
79 dollars for each filed application for a branch bank that
80 is to be established by the construction, lease or
81 acquisition of a branch bank facility, and two thousand
82 five hundred dollars for a branch bank that is to be
83 established by the purchase of the business and assets
84 and assumption of the liabilities of, or merger or
85 consolidation with another banking institution. The
86 board shall complete the examination and investigation

87 within ninety days from the date on which such
88 application and fee are received, unless the board
89 request in writing additional information and disclo-
90 sures concerning the proposed branch bank from the
91 applicant banking institution, in which event such
92 ninety-day period shall be extended for an additional
93 period of thirty days plus the number of days between
94 the date of such request and the date such additional
95 information and disclosures are received.

96 (i) Upon completion of the examination and investiga-
97 tion with respect to such application, the board shall, if
98 a hearing be required pursuant to subsection (j) of this
99 section, forthwith give notice and hold a hearing
100 pursuant to the following provisions:

101 (1) Notice of such hearing shall be given to the
102 banking institution with respect to which the hearing is
103 to be conducted in accordance with the provisions of
104 section two, article seven, chapter twenty-nine-a of this
105 code, and such hearing and the administrative proce-
106 dures in connection therewith shall be governed by all
107 of the provisions of article five, chapter twenty-nine-a of
108 this code, and shall be held at a time and place set by
109 the board but shall not be less than ten nor more than
110 thirty days after such notice is given.

111 (2) At any such hearing a party may represent
112 himself or be represented by an attorney-at-law admit-
113 ted to practice before any circuit court of this state.

114 (3) After such hearing and consideration of all the
115 testimony and evidence, the board shall make and enter
116 an order approving or disapproving the application,
117 which order shall be accompanied by findings of fact
118 and conclusions of law as specified in section three,
119 article five, chapter twenty-nine-a of this code, and a
120 copy of such order and accompanying findings and
121 conclusions shall be served upon all parties to such
122 hearing, and their attorneys of record, if any.

123 (j) No state banking institution may establish a
124 branch bank until the board, following an examination,
125 investigation, notice and hearing, enters an order
126 approving an application for that branch bank:

127 *Provided*, That no such hearing shall be required with
128 respect to any application to establish a branch bank
129 which is approved by the board unless a banking
130 institution has timely filed a petition to intervene
131 pursuant to subsection (g) of this section. The order shall
132 be accompanied by findings of fact that:

133 (1) Public convenience and advantage will be pro-
134 moted by the establishment of the proposed branch
135 bank;

136 (2) Local conditions assure reasonable promise of
137 successful operation of the proposed branch bank and of
138 those banks and branches thereof already established in
139 the community;

140 (3) Suitable physical facilities will be provided for the
141 branch bank;

142 (4) The applicant state-chartered banking institution
143 satisfies such reasonable and appropriate requirements
144 as to sound financial condition as the commissioner or
145 board may from time to time establish by regulation;

146 (5) The establishment of the proposed branch bank
147 would not result in a monopoly, nor be in furtherance
148 of any combination or conspiracy to monopolize the
149 business of banking in any section of this state; and

150 (6) The establishment of the proposed branch bank
151 would not have the effect in any section of the state of
152 substantially lessening competition, nor tend to create a
153 monopoly or in any other manner be in restraint of
154 trade, unless the anticompetitive effects of the establish-
155 ment of that proposed branch bank are clearly out-
156 weighed in the public interest by the probable effect of
157 the establishment of the proposed branch bank in
158 meeting the convenience and needs of the community to
159 be served by that proposed branch bank.

160 (k) Any party who is adversely affected by the order
161 of the board shall be entitled to judicial review thereof
162 in the manner provided in section four, article five,
163 chapter twenty-nine-a of this code. Any such party
164 adversely affected by a final judgment of a circuit court
165 following judicial review as provided in the foregoing

166 sentence may seek review thereof by appeal to the
167 supreme court of appeals in the manner provided in
168 article six, chapter twenty-nine-a of this code.

169 (l) Pursuant to the resolution of its board of directors
170 and with the prior written approval of the commis-
171 sioner, a state banking institution may discontinue the
172 operation of a branch bank upon at least thirty days'
173 prior public notice given in such form and manner as
174 the commissioner prescribes.

175 (m) Any violation of any provision of this section shall
176 constitute a misdemeanor offense punishable by appli-
177 cable penalties as provided in section fifteen, article
178 eight of this chapter.

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

Bruce O. Williams

Chairman Senate Committee

Bernard V. Kelly

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Jedd C. Wickes

Clerk of the Senate

Donald G. Kopp

Clerk of the House of Delegates

Dan Tombaril

President of the Senate

[Signature]

Speaker of the House of Delegates

The within *approved* this the *30th*
March
day of _____, 1988.

[Signature]

Governor

PRESENTED TO THE
GOVERNOR

Date 3/23/58

Time 3:47 p.m.

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE