WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1992

ENROLLED
Com. Sub. For
HOUSE BILL No. 4613......

(By Delegates Rutledge and Williams)

Passed ......................................... March 2 .................................. 1992

In Effect Ninety Days From Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4613
(BY DELEGATES RUTLEDGE AND WILLIAMS)

[Passed March 7, 1992; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article four, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the issuance of bank stock and organizational expenses.

Be it enacted by the Legislature of West Virginia:

That section four, article four, 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 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.

§31A-4-4. Stock to be paid in full before engaging in business; exception as to unissued stock; organizational expense fund; affidavit of incorporators; penalties; stockholders’ preemptive rights.

(a) All of the capital stock of every banking institution, chartered under the laws of this state, shall be paid in full in cash and issued to the ultimate subscribers, not an agent or broker acting on behalf of the organizers, before it shall be authorized to engage in business,
except such business as is incidental and necessarily preliminary to its organization: *Provided,* That with the approval of the commissioner of banking, the charter of any state bank, now or hereafter organized, may provide that not to exceed five percent of the bank's authorized capital stock may be unissued stock. Such authorized but unissued stock may be issued from time to time to employees of the bank pursuant to a stock option or stock purchase plan approved by the commissioner or may be issued for such other purposes and consideration as may be approved by the board of directors of said bank.

(b) Each subscriber at the time he or she subscribes to the stock of a proposed banking institution shall pay in cash a sum at least equal to five percent of the par value of such stock into a fund to be used to defray the expenses of organization of said institution. No organizational expenses shall be paid out of any other funds of the bank. The amount of any organizational expenses which are accumulated and recorded on the newly organized bank's accounting records as an asset to be amortized over a period of time according to generally accepted accounting principles shall be added to the capital requirement for incorporation of the bank as determined by the West Virginia board of banking and financial institutions pursuant to subsection (a), section three, article four of this chapter. Upon the grant of a charter to the institution any unexpended balance in the organizational expense fund shall be transferred to undivided profits of the institution. If the charter application is finally denied, any unexpended balance in said fund shall be distributed among the contributors in proportion to their respective payments.

(c) A majority of the incorporators shall file with the West Virginia board of banking and financial institutions at the time of filing of the charter application an affidavit: (1) Setting forth all expenses incurred or to be incurred in connection with the organization of the institution, subscriptions for its shares and sale of its shares, and (2) stating that no fee, compensation or commission prohibited by this section has been or will
be paid or incurred. The board may disapprove the
charter application on account of any violation of this
section and order the incorporators to restore any sum
expended for other than proper organizational expense.
In addition, violations hereof shall constitute a misde-
meanor offense punishable as prescribed in section
fifteen, article eight of this chapter.

(d) Unless otherwise provided in the charter, when-
ever additional stock is offered for sale, stockholders of
record on the date of the offer shall have the right to
subscribe to such proportion of the shares as the stock
held by them bears to the total of the outstanding stock.
This right shall be transferable but shall terminate if
not exercised within sixty days of the offer. If the right
be not exercised, the stock shall not be offered for sale
to others at a lower price without the stockholders again
being accorded a preemptive right to subscribe. No
banking institution shall sell its shares of stock at less
than par, but may sell its shares at such price above par
as may be set by the board of directors. The preemptive
rights of the stockholders, as provided in this para-
graph, shall not apply to any stock issued by a banking
institution, to another bank or financial institution or
the stockholders thereof, pursuant to a merger or
consolidation with such other bank or financial institu-
tion, or to authorized but unissued stock authorized by
the charter of the banking institution.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 30th day of , 1992.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/25/42
Time 11:50 Am