WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

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ENROLLED

Com. Sub. for
HOUSE BILL No. 4129

(By Delegates D. Williams, Phillips, H. White, Rutledge & Harrison)

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Passed .......................... March 1, 1994

In Effect .......................... 90 Days From Passage
AN ACT to amend and reenact section thirty-three, article four, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to joint deposit accounts; payment, pledge or garnishment of joint accounts; notice to accountholders; effective date; notice to banking institutions; and limitation on liability of banking institutions.

Be it enacted by the Legislature of West Virginia:

That section thirty-three, 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-4-33. Deposits in trust; deposits in more than one name; limitation on liability of institutions making payments from certain accounts; notice requirements; pledges or garnishment of joint accounts.

1 (a) If any deposit in any banking institution be made
2 by any person describing him or herself in making such
3 deposit as trustee for another, and no other or further
notice of the existence and terms of a legal and valid
trust than such description shall be given in writing to
the banking institution, in the event of the death of the
person so described as trustee, such deposit, or any part
thereof, together with the interest thereon, may be paid
to the person for whom the deposit was thus stated to
have been made.

(b) When a deposit is made by any person in the name
of such depositor and another or others and in form to
be paid to any one of such depositors, or the survivor
or survivors of them, such deposit, and any additions
thereof, made by any of such persons, upon the making
thereof, shall become the property of such persons as
joint tenants. All such deposits, together with all interest
thereon, shall be held for the exclusive use of the persons
so named, and may be paid to any one of them during
the lifetime of them, or to the survivor or survivors after
the death of any of them.

(c) Payment to any joint depositor and the receipt or
the acquittance of the one to whom such payment is
made shall be a valid and sufficient release and
discharge for all payments made on account of such
deposit, prior to the receipt by the banking institution
of notice in writing, signed by any one of such joint
tenants not to pay such deposit in accordance with the
terms thereof. Prior to the receipt of such notice no
banking institution shall be liable for the payment of
such sums.

(d) When any joint deposit account is opened on or
after the first day of July, one thousand ninety four, the owners thereof shall be given written
notice either on a signature card or in connection with
the execution of a signature card, on a form to be
approved by the banking commissioner, that the entire
balance of any such account may be paid to a creditor
or other claimant of any one of the joint tenants
pursuant to legal process, including, but not limited to,
garnishment, suggestion, or execution, regardless of the
receipt of any notice from any of the joint tenants. Such
notice shall also advise the owners of a joint deposit
account that the entire balance of any such account may
be paid to any of the named joint tenants at any time; pledged as security to a banking institution by any of the named joint tenants; or otherwise encumbered at the request of any of the named joint tenants unless written notice is given to the banking institution, signed by any one of the joint tenants, not to permit such payment, pledge or encumbrance. The giving of the notice required by this section to any of the joint deposit account owners shall be deemed effective notice to all owners of the joint deposit account.

(e) If a pledge or encumbrance of any joint account created pursuant to this section is made to a banking institution and the banking institution has not received, prior to the date of the pledge, any written notice signed by any one of the joint tenants prohibiting such a pledge or encumbrance, the banking institution shall not be liable to any one of the joint tenants for its recourse against the deposit in accordance with the terms of the pledge.

(f) A banking institution may pay the entire amount of a deposit account created pursuant to this section to a creditor, or other claimant of any one of the joint tenants in response to legal process employed by the creditor including, but not limited to, garnishment, suggestion, or execution, regardless of any notice received from any of the joint tenants. Upon such payment, the banking institution shall be released and discharged from all payments on account of such deposit: Provided, That payment by a banking institution to any such creditor shall be without prejudice to any right or claim of any joint tenant against the creditor or any other person to recover his interest in the deposit.

(g) The commissioner shall promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code regarding the approval of forms and procedures required by this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

President of the Senate

Speaker of the House of Delegates

The within is approved this the 16th day of May, 1994.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/10/94
Time 9:30 a.m.