

HB# 4616

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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



# ENROLLED

HOUSE BILL No. *Hb 16*

(By Delegates *Phillips, S. Williams, Fealy,  
Kessel, Frederick, Flanigan and Spencer*)



Passed *March 12,* 1994

In Effect *90 Days from* Passage

**ENROLLED**  
**H. B. 4616**

(By DELEGATES PHILLIPS, S. WILLIAMS, FEALY, KESSEL,  
FREDERICK, FLANIGAN AND SPENCER)

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[Passed March 12, 1994; in effect ninety days from passage.]

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AN ACT to amend and reenact section thirty-five, article four, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to allowing banks to store records of checks and other documents by use of nonerasable optical image disks or by other records retention methods approved by the commissioner of banking.

*Be it enacted by the Legislature of West Virginia:*

That section thirty-five, 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-4-35. Reproduction of checks and other records;  
admissibility of copies in evidence; disposition  
of originals.**

1 Any banking institution may cause to be copied or  
2 reproduced, by any photographic, photostatic, micropho-  
3 tographic or by similar miniature photographic process  
4 or by nonerasable optical image disks (commonly  
5 referred to as compact disks) or by other records  
6 retention technology approved by rule of the commis-  
7 sioner of banking, all or any number of its checks, and  
8 all or any part of its documents, books, records,  
9 correspondence and all other instruments, papers and

10 writings, in any manner relating to the operation of its  
11 business, other than its notes, bonds, mortgages and  
12 other securities and investments, and may substitute  
13 such copies or reproductions either in positive or  
14 negative form for the originals thereof. Thereafter, such  
15 copy or reproduction in the form of a positive print  
16 thereof, shall be deemed for all purposes to be an  
17 original counterpart of and shall have the same force  
18 and effect as the original thereof and shall be admissible  
19 in evidence in all courts and administrative agencies in  
20 this state, to the same extent, and for the same purposes  
21 as the original thereof, and the banking institution may  
22 destroy or otherwise dispose of the original. But every  
23 banking institution shall retain either the originals or  
24 such copies or reproductions of its records of final entry,  
25 including, without limiting the generality of the  
26 foregoing, cards used under the card system and deposit  
27 tickets for deposits made, for a period of at least six  
28 years from the date of the last entry on such books or  
29 the date of making of such deposit tickets and card  
30 records, or, in the case of a banking institution exercis-  
31 ing trust or fiduciary powers, until the expiration of six  
32 years from the date of termination of any trust or  
33 fiduciary relationship by a final accounting, release,  
34 court decree or other proper means of termination.

35 All circumstances surrounding the making or issu-  
36 ance of such checks, documents, books, records, corres-  
37 pondence and other instruments, papers or writings, or  
38 the photographic, photostatic or microphotographic  
39 copies or optical disks or other permissible reproduc-  
40 tions thereof, when the same are offered in evidence,  
41 may be shown to affect the weight but not the admis-  
42 sibility thereof.

43 Any device used to copy or reproduce such documents  
44 and records shall be one which correctly and accurately  
45 reproduces the original thereof in all details and any  
46 disk or film used therein shall be of durable material.

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

*[Handwritten Signature]*  
.....  
Chairman Senate Committee

*Ernest C Moore*  
.....  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Harold E. Adams*  
.....  
Clerk of the Senate

*Donald L. Neff*  
.....  
Clerk of the House of Delegates

*John B. ...*  
.....  
President of the Senate

*Carl Cohen*  
.....  
Speaker of the House of Delegates

The within *is approved* ..... this the *29th*  
day of *March* ..... 1994.

*Gaston Capner*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date

3/25/94

Time

10:21 am