

HB# 4616

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

HOUSE BILL No. *Hb16*

(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)

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

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