

HB 4129

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

Com. Sub. for
HOUSE BILL NO. 4129

(By Delegates *S. Williams, Phillips, H. White,*
Rutledge + Harrison)



Passed March 1, 1994

In Effect 90 Days From Passage

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 4129

(By DELEGATES S. WILLIAMS, PHILLIPS, H. WHITE,
RUTLEDGE AND HARRISON)

[Passed March 1, 1934; in effect ninety 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

4 notice of the existence and terms of a legal and valid
5 trust than such description shall be given in writing to
6 the banking institution, in the event of the death of the
7 person so described as trustee, such deposit, or any part
8 thereof, together with the interest thereon, may be paid
9 to the person for whom the deposit was thus stated to
10 have been made.

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

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

32 (d) When any joint deposit account is opened on or
33 after the first day of July, one thousand nine hundred
34 ninety four, the owners thereof shall be given written
35 notice either on a signature card or in connection with
36 the execution of a signature card, on a form to be
37 approved by the banking commissioner, that the entire
38 balance of any such account may be paid to a creditor
39 or other claimant of any one of the joint tenants
40 pursuant to legal process, including, but not limited to,
41 garnishment, suggestion, or execution, regardless of the
42 receipt of any notice from any of the joint tenants. Such
43 notice shall also advise the owners of a joint deposit
44 account that the entire balance of any such account may

45 be paid to any of the named joint tenants at any time;
46 pledged as security to a banking institution by any of
47 the named joint tenants; or otherwise encumbered at the
48 request of any of the named joint tenants unless written
49 notice is given to the banking institution, signed by any
50 one of the joint tenants, not to permit such payment,
51 pledge or encumbrance. The giving of the notice
52 required by this section to any of the joint deposit
53 account owners shall be deemed effective notice to all
54 owners of the joint deposit account.

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

64 (f) A banking institution may pay the entire amount
65 of a deposit account created pursuant to this section to
66 a creditor or other claimant of any one of the joint
67 tenants in response to legal process employed by the
68 creditor including, but not limited to, garnishment,
69 suggestion, or execution, regardless of any notice
70 received from any of the joint tenants. Upon such
71 payment, the banking institution shall be released and
72 discharged from all payments on account of such
73 deposit: *Provided*, That payment by a banking institu-
74 tion to any such creditor shall be without prejudice to
75 any right or claim of any joint tenant against the
76 creditor or any other person to recover his interest in
77 the deposit.

78 (g) The commissioner shall promulgate rules in
79 accordance with the provisions of chapter twenty-nine-
80 a of this code regarding the approval of forms and
81 procedures required by this section.

Enr. Com. Sub. for H. B. 4129] 4

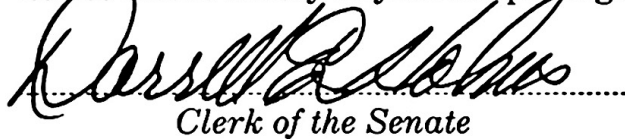
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

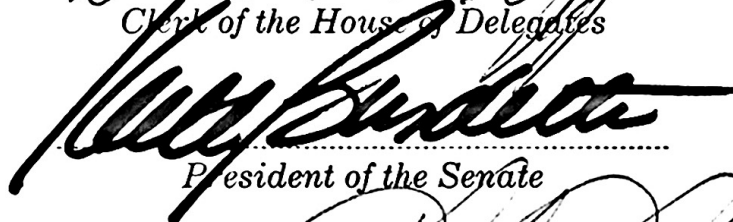

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Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

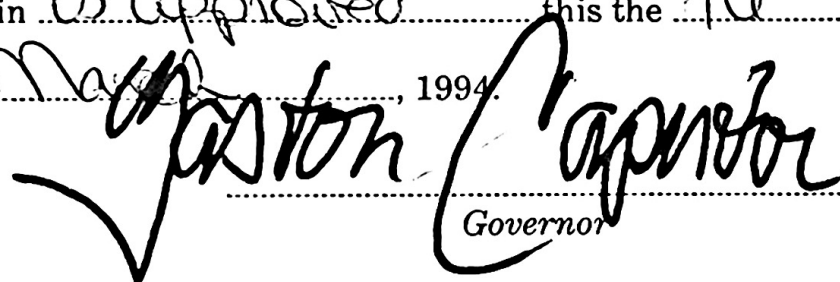

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker of the House of Delegates

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


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Gaston Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 3/10/94

Time 9:30 am