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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Committee Substitute for

SENATE BILL NO. 254

(By Senators MANCHIN & HERMICK)



PASSED FEBRUARY 28, 1995

In Effect 90 days from Passage

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 254

(SENATORS MANCHIN AND HELMICK, *original sponsors*)

[Passed February 28, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections twelve-c and thirteen, article eight, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to providing for out-of-state loan production office operations in West Virginia; and allowing for limited indemnification of officers, directors and employees by banking institutions.

Be it enacted by the Legislature of West Virginia:

That sections twelve-c and thirteen, article eight, 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 8. HEARINGS; ADMINISTRATIVE PROCEDURES; JUDICIAL REVIEW; UNLAWFUL ACTS; PENALTIES.

§31A-8-12c. Loan origination offices permitted.

1 (a) Origination of loans by employees or agents of a
2 banking institution at offices other than that banking
3 institution's principal office or branch bank is permitted:
4 *Provided*, That any such loans originating at said office
5 are approved and made at the banking institution's
6 principal place of business or branch bank.

7 (b) Origination of loans by employees or agents of a
8 federally-insured depository institution of banking
9 chartered outside the state of West Virginia at non-
10 branch offices within this state is permitted: *Provided*,
11 That a license is obtained pursuant to section five, article
12 two of this chapter and that any such loans originating
13 at the office are approved and made at the banking
14 institution's principal place of business or branch bank:
15 *Provided, however*, That any consumer loans made in
16 this manner conform with state consumer protection
17 laws. The commissioner of banking may examine the
18 operations of such offices and collect fees for their
19 examination in the amount of fifty dollars per hour of
20 examiner time. A loan production office authorized
21 under this section or by federal law may indicate its
22 bank affiliation notwithstanding section two, article four
23 of this chapter.

**§31A-8-13. Banking institution not to be surety; hypotheca-
tion and other dealings with securities and
assets limited.**

1 No banking institution shall become or be accepted as
2 surety on any bond or undertaking required by the laws
3 or by the courts of this state or any other state or shall
4 become surety or guarantor of any person for the dis-
5 charge of any duty in any position or the performance of
6 any contract or undertaking. No banking institution
7 shall pledge, hypothecate or deliver any of its assets of
8 any description whatsoever to any person to indemnify
9 him as surety for such banking institution or as surety
10 for any other person. But a bank may pledge, hypothe-
11 cate, deliver or deposit securities to guarantee deposits
12 of the United States, or any agency or instrumentality

13 thereof, the state of West Virginia, or any agency or
14 instrumentality thereof, or any county, district, municipi-
15 pal corporation or other governmental agency or instru-
16 mentality, and the deposits of a bankrupt's estate made
17 pursuant to an order of a court of bankruptcy, and, with
18 the consent in writing of the commissioner of banking,
19 may pledge, hypothecate, deliver or deposit securities or
20 assets to guarantee deposits made by receivers of closed
21 or insolvent banking institutions; and the receiver of a
22 closed or insolvent banking institution, if the proceeding
23 be not in court, with the consent in writing of the
24 commissioner of banking, and if the proceeding be in
25 court, with the consent in writing of the commissioner of
26 banking and the approval of the court, may accept
27 securities or assets of a banking institution to secure
28 deposits made by such receiver. In every such case, the
29 hypothecation of such securities or assets shall be by
30 proper legal transfer as collateral security to protect and
31 indemnify by trust any and all loss in case of any default
32 on the part of the banking institution in its capacity as a
33 depository for any such deposits as aforesaid, and such
34 collateral security shall be released only by order of
35 record of the public officer or public body, or by the
36 receiver of a closed or insolvent banking institution, if
37 the proceeding be not in court, with the consent in
38 writing of the commissioner of banking, and if the
39 proceeding be in court, with the consent in writing of the
40 commissioner of banking and the approval of the court,
41 when satisfied that full and faithful accounting and
42 payment of all the moneys has been made under the
43 provisions hereof. The public officer or public body, or
44 the receiver of a closed or insolvent banking institution,
45 shall make ample provision for the safekeeping of such
46 hypothecated securities or assets, and the interest
47 thereon when paid shall be turned over to the banking
48 institution, so long as it is not in default as aforesaid.

49 The foregoing shall not prevent the hypothecation of
50 the securities or assets of any banking institution to
51 secure the repayment of money borrowed from another

52 banking institution; nor shall the foregoing prevent a
53 bank's indemnification of its officers, directors or
54 employees by purchase of insurance or otherwise, to the
55 extent that such indemnification is permitted to that
56 institution under federal law. Indemnification articles
57 or bylaws must conform to, or be more restrictive than,
58 that set forth in section nine, article one, chapter thirty-
59 one of this code. The commissioner reserves the right to
60 prohibit or limit, by regulation or order, any indemnifi-
61 cation payment for reasons of safety and soundness or
62 nonconformity to the bank's articles of incorporation or
63 bylaws or to the restrictions placed on indemnification
64 contained in this section or other applicable state law.

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

Randy Scherson
.....
Chairman Senate Committee

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

Originated in the Senate.

In effect ninety days from passage.

Harold R. Adams
.....
Clerk of the Senate

Donald L. Hopp
.....
Clerk of the House of Delegates

Earl By Tomblin
.....
President of the Senate

Bill Rubin
.....
Speaker House of Delegates

The within *is approved* this the *10th*
day of *March*, 1995.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/7/95

Time 9:20

