

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



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STATE OF WEST VIRGINIA

HOUSE BILL No. H657

(By Delegate s Thompson, Faircloth
Amores, Overt, Trump, Butchins
and Clement) • —

Passed March 9 1996

In Effect Ninety Days From Passage

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H. B. 4657

(BY DELEGATES THOMPSON, FAIRCLOTH, AMORES,
HUNT, TRUMP, HUTCHINS AND CLEMENTS)

[Passed March 9, 1996; 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 reproduction of checks and other records; admissibility of copies in evidence; disposition of originals; assessing costs of record production; and record production generally.

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; record production generally.

- 1 (a) Any bank may cause to be copied or reproduced,
- 2 by any photographic, photostatic, microphotographic or
- 3 by similar miniature photographic process or by
- 4 nonerasable optical image disks (commonly referred to as
- 5 compact disks) or by other records retention technology
- 6 approved by rule of the commissioner of banking, all or
- 7 any number of its checks, and all or any part of its docu-

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

33 All circumstances surrounding the making or issuance
34 of such checks, documents, books, records, correspon-
35 dence and other instruments, papers or writings, or the
36 photographic, photostatic or microphotographic copies or
37 optical disks or other permissible reproductions thereof,
38 when the same are offered in evidence, may be shown to
39 affect the weight but not the admissibility thereof.

40 Any device used to copy or reproduce such docu-
41 ments and records shall be one which correctly and accu-
42 rately reproduces the original thereof in all details and any
43 disk or film used therein shall be of durable material.

44 (b) When a subpoena duces tecum is served upon a
45 custodian of records of any bank in an action or proceed-
46 ing in which the bank is neither a party nor the place
47 where any cause of action is alleged to have arisen and the

48 subpoena requires the production of all or any part of the
49 records of the bank relating to the conduct of its business
50 with its customers, the bank shall be entitled to a search fee
51 not to exceed ten dollars, together with reimbursement for
52 costs incurred in the copying or other reproduction of any
53 such record or records which have already been reduced
54 to written form, in an amount not to exceed seventy-five
55 cents per page. Any and all such costs shall be borne by
56 the party requesting the production of the record or re-
57 cords.

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

Wesley Spooner
Chairman Senate Committee

Rudy Seavert
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Carroll Adams
Clerk of the Senate

Bregory M. Boy
Clerk of the House of Delegates

Carl Ray Tomblin
President of the Senate

Carl Albert
Speaker of the House of Delegates

The within is approved this the 1st
day of April, 1996.

Wesley Spooner
Governor

PRESENTED TO THE

GOVERNOR

Date

3/27/96

Time

12:55 