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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



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WEST VIRGINIA LEGISLATURE

HOUSE BILL No. 4644

(By Delegate Hunt, Tomblin, Tillis)
Secrist, and Amores



Passed March 9, 1996

In Effect 90 Days From Passage

ENROLLED
H. B. 4644

(BY DELEGATES HUNT, TOMBLIN, TILLIS, SEACRIST AND AMORES)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend article four, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section forty-five, relating to authorizing banking institutions to refuse to open checking accounts for potential customers convicted of violations involving worthless checks; authorizing specific criminal background investigation; civil immunity; and confidentiality.

Be it enacted by the Legislature of West Virginia:

That article four, chapter thirty-one-a, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section forty-five, to read as follows:

ARTICLE 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.

§31A-4-45. Refusal of banking institutions to open checking accounts for certain individuals convicted of worthless check violations; authorizing criminal background investigation by banking institutions; civil immunity; and confidentiality.

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1 (a) Any banking institution may refuse to open an
2 account with a potential customer based on its actual or
3 constructive knowledge, or when through background
4 investigation it has acquired information or knowledge,
5 that the customer has previously been convicted of two or
6 more violations of section thirty-nine or section
7 thirty-nine-a, article three, chapter sixty-one of this code,
8 involving obtaining property in return for a worthless
9 check or issuance of a worthless check within five years
10 prior to the request to open the account, or during that
11 period has been convicted of two violations of such activi-
12 ty under federal law or the laws of another state. This
13 provision shall not impair the bank's ability to refuse to
14 open an account for a potential customer for any other
15 lawful reason, including, but not limited to, past experi-
16 ence with that customer involving overdrawn accounts of
17 checks returned for insufficient funds.

18 (b) Any banking institution acting pursuant to subsec-
19 tion (a) of this section shall be immune from civil liability
20 for refusing to open an account based on the potential
21 customer's past conviction for obtaining property in return
22 for a worthless check or issuance of a worthless check:
23 *Provided,* That this immunity shall not apply to any viola-
24 tions of subsection (c) of this section.

25 (c) Any and all non-public records or credit informa-
26 tion obtained by the bank, its employees or agents in con-
27 ducting a background investigation on a customer's or
28 potential customer's previous convictions for violation of
29 section thirty-nine or section thirty-nine-a, article three,
30 chapter sixty-one of this code, or convictions under feder-
31 al law or the laws of another state involving obtaining
32 property in return for a worthless check or issuance of a
33 worthless check, shall remain confidential and no agent or
34 employee of the banking institution shall publicly disclose
35 or publish any such information obtained.

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

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

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

[Signature]
Governor

PRESENTED TO THE

GOVERNOR

Date

3/27/96

Time

2:50 pm