

RECEIVED

98 FEB 27 PM 12:25

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

HOUSE BILL No. 4038

(By Delegates Thompson and Kominar)



Passed February 16, 1998

In Effect Ninety Days from Passage

RECEIVED
98 FEB 27 PM 12:25
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

H. B. 4038

(BY DELEGATES THOMPSON AND KOMINAR)

[Passed February 16, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact section thirteen, article four, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to providing West Virginia state-chartered banks authority and parity with national banks in the marketing and sale of insurance and annuities.

Be it enacted by the Legislature of West Virginia:

That section thirteen, 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-4-13. Powers of state banking institutions generally.

- 1 (a) Any state-chartered banking institution shall have
- 2 and exercise all of the powers necessary for, or incidental
- 3 to, the business of banking, and without limiting or
- 4 restricting such general powers, it shall have the right to
- 5 buy or discount promissory notes and bonds, negotiate
- 6 drafts, bills of exchange and other evidences of
- 7 indebtedness, borrow money, receive deposits on such
- 8 terms and conditions as its officers may prescribe, buy and
- 9 sell, exchange, bank notes, bullion or coin, loan money on
- 10 personal or other security, rent safe-deposit boxes and

11 receive on deposit, for safekeeping, jewelry, plate, stocks,
12 bonds and personal property of whatsoever description
13 and provide customer services incidental to the business of
14 banking, including, but not limited to, the issuance and
15 servicing of and lending money by means of credit cards
16 as letters of credit or otherwise. Any state-chartered
17 banking institution may accept, for payment at a future
18 date, not to exceed one year, drafts drawn upon it by its
19 customers. Any state-chartered banking institution may
20 issue letters of credit, with a specified expiration date or
21 for a definite term, authorizing the holders thereof to draw
22 drafts upon it or its correspondents, at sight or on time.
23 Any such banking institution may organize, acquire, own,
24 operate, dispose of, and otherwise manage wholly owned
25 subsidiary corporations for purposes incident to the
26 banking powers and services authorized by this chapter.

27 (b) Any state-chartered banking institution may
28 acquire, own, hold, use and dispose of real estate, which
29 shall in no case be carried on its books at a value greater
30 than the actual cost: *Provided*, That such property shall be
31 necessary for the convenient transaction of its business,
32 including any buildings, office space or other facilities to
33 rent as a source of income: *Provided, however*, That such
34 investment hereafter made shall not exceed sixty-five
35 percent of the amount of its capital stock and surplus,
36 unless the consent in writing of the commissioner of
37 banking is first secured.

38 (c) Any state-chartered banking institution may
39 acquire, own, hold, use and dispose of real estate, which
40 shall be carried on its books at the lower of fair value or
41 cost as defined in rules promulgated by the commissioner
42 of banking, subject to the following limitations:

43 (1) Such as shall be mortgaged to it in good faith as
44 security for debts in its favor;

45 (2) Such as shall be conveyed to it in satisfaction of
46 debts previously contracted in the course of its business
47 dealings; and

48 (3) Such as it shall purchase at sales under judgments,
49 decrees, trust deeds or mortgages in its favor, or shall

50 purchase at private sale, to secure and effectuate the
51 payment of debts due to it.

52 (d) The value at which any real estate is held shall not
53 be increased by the addition thereto of taxes, insurance,
54 interest, ordinary repairs, or other charges which do not
55 materially enhance the value of the property.

56 (e) Any real estate acquired by any such banking
57 institution under subdivisions (2) and (3) of subsection (c)
58 of this section shall be disposed of by the banking
59 institution at the earliest practicable date, but the officers
60 thereof shall have a reasonable discretion in the matter of
61 the time to dispose of such property in order to save the
62 banking institution from unnecessary losses: *Provided*,
63 That in every case such property shall be disposed of
64 within ten years from the time it is acquired by the
65 banking institution, unless an extension of time is given in
66 writing by the commissioner of banking.

67 (f) The sale of insurance by state-chartered banking
68 institutions shall be subject to the following:

69 Any state-chartered banking institution having its
70 main or a branch office in any place the population of
71 which does not exceed five thousand inhabitants, as shown
72 by the last preceding decennial census, through its
73 employees or agents, may, from that place or office,
74 directly or through a controlled subsidiary, act as agent
75 for any fire, life, casualty, liability or other insurance
76 company authorized by the authorities of the state to do
77 business in this state, by soliciting and selling insurance
78 and collecting premiums on policies issued by such
79 company; and may receive for services so rendered all
80 permissible fees or commissions as may be agreed upon
81 between the bank and the insurance company for which it
82 may act as agent: *Provided*, That no such bank shall in
83 any case assume or guarantee the payment on insurance
84 policies issued through its agency by its principal:
85 *Provided, however*, That the bank shall not guarantee the
86 truth of any statement made by an insured in filing his,
87 her or its application for insurance. For purposes of this
88 section, a "controlled subsidiary" is one in which the state-
89 chartered banking institution owns at least eighty percent

90 of all classes of stock. This provision is intended to give
91 state-chartered banking institutions parity with national
92 banks operating in this state with regard to the marketing
93 and sale of insurance notwithstanding the prohibitions and
94 limitations contained in article eight-c or elsewhere in this
95 chapter, and shall be construed consistently with
96 interpretations of 12 U.S.C. §92, the regulations
97 promulgated thereunder, and any successor legislation or
98 regulations.

99 (g) Any state-chartered banking institution may,
100 through its employees or agents, market and sell, as agent,
101 annuities, either at its main office or at any of its branches.
102 The marketing and sale of annuities may be made by the
103 bank, through its employees or agents, directly, or through
104 a controlled subsidiary, as defined in subsection (f) above.
105 This provision is intended to give state-chartered banks
106 parity with national banks operating in this state with
107 regard to the sale of annuities, notwithstanding the
108 prohibitions and limitations contained in article eight-c or
109 elsewhere in this chapter.

110 (h) Unless waived in writing by the commissioner, a
111 state-chartered bank may not invest or otherwise expend
112 in excess of ten percent of its capital and surplus
113 calculated at the end of the previous calendar year on the
114 activities permitted by subsections (f) and (g) on an
115 aggregate basis together with any of its approved
116 financially related products and services. For purposes of
117 this section, approved financially related products and
118 services means those products and services offered by a
119 state-chartered bank pursuant to an approved application
120 submitted under article eight-c of this chapter.

121 (i) The commissioner shall promulgate rules in
122 accordance with chapter twenty-nine-a of this code
123 relating to the sale of insurance or annuities, including, but
124 not limited to, rules requiring notice of the intention to
125 engage in such activities and relating to the policies and
126 procedures state-chartered banking institutions should
127 adopt in connection with such activities.

128 (j) Any state-chartered banking institution and its
129 employees or agents engaged in the sale of insurance or

130 annuities permitted hereby must also comply with all
131 applicable requirements for the sale of such products
132 imposed by the West Virginia commissioner of insurance
133 and by any state or federal securities regulator.

134 (k) No state-chartered banking institution shall
135 hereafter invest more than twenty percent of the amount
136 of its capital and surplus in furniture and fixtures, whether
137 the same be installed in a building owned by such banking
138 institution, or in quarters leased by it, unless the consent in
139 writing of the commissioner of banking is first secured.

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

Randy Schoonover
Chairman Senate Committee

Neil Fantasia
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

David B. Bess
Clerk of the Senate

Rayon W. Gray
Clerk of the House of Delegates

Carl Roy Tomblin
President of the Senate

[Signature]
Speaker of the House of Delegates

The within *approved* this the *2th*
day of *February*, 1998.

[Signature]
Governor

PRESENTED TO THE

GOVERNOR

Date

2/24/98

Time

4:45 pm