

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session 2003

ENROLLED

SENATE BILL NO. 190

(By Senator Minard, et al.)

PASSED March 7, 2003

In Effect ninety days from **Passage**

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Senate Bill No. 190

(BY SENATORS MINARD, SHARPE, JENKINS, ROWE AND SPROUSE)

[Passed March 7, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article two, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the bank examination schedule for certain banking institutions.

Be it enacted by the Legislature of West Virginia:

That section six, article two, 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 2. DIVISION OF BANKING.

§31A-2-6. Commissioner's examinations of financial institution; reports; records; communications from commissioner to institution; examination by federal or out-of-state agency in lieu of commissioner's examination.

- 1 The commissioner shall make, at least once every twelve
- 2 months, a thorough examination of all the books, accounts,

3 records and papers of every depository financial institu-
4 tion with: (1) Assets of more than two hundred fifty
5 million dollars; or (2) banks with a composite rating of
6 three, four or five under the federal uniform financial
7 institution rating system. For all other depository finan-
8 cial institutions the commissioner of banking shall make,
9 at least once every eighteen months, a thorough examina-
10 tion of all the books, accounts, records and papers. He or
11 she shall carefully examine all of the assets of each such
12 institution, including its notes, drafts, checks, mortgages,
13 securities deposited to assure the payment of debts unto it
14 and all papers, documents and records showing, or in any
15 manner relating to, its business affairs, and shall ascertain
16 the full amount and the nature in detail of all of its assets
17 and liabilities. The commissioner may also, at his or her
18 discretion, make or cause to be made an annual or periodic
19 examination of the books, accounts, records and papers of
20 other financial institutions under his or her supervision for
21 the purposes of determining compliance with applicable
22 consumer and credit lending laws and verifying informa-
23 tion provided in any license application or annual report
24 submitted to the commissioner. The commissioner may
25 also make such examination of any subsidiaries or affili-
26 ates of a financial institution as he or she may deem
27 necessary to ascertain the financial condition of the
28 financial institution, the relations between the financial
29 institution and its subsidiaries and affiliates and the effect
30 of the relations upon the affairs of such financial institu-
31 tion. A full report of every examination shall be made and
32 filed and preserved in the office of the commissioner and
33 a copy thereof forthwith mailed to the institution exam-
34 ined. Every institution shall retain all of its records of
35 final entry for the period of time as required in section
36 thirty-five, article four of this chapter for banking institu-
37 tions. Unless otherwise covered by assessments or a
38 specific provision of this code, the cost of examinations
39 made pursuant to this section shall be borne by the
40 financial institution at a rate of fifty dollars per each
41 examiner hour expended.

42 Every official communication from the commissioner to
43 any institution, or to any officer thereof, relating to an
44 examination or an investigation of the affairs of the
45 institution conducted by the commissioner or containing
46 suggestions or recommendations as to the manner of
47 conducting the business of the institution, shall be read by
48 the board of directors at the next meeting after the receipt
49 thereof and the president, or other executive officer, of the
50 institution shall forthwith notify the commissioner in
51 writing of the presentation and reading of the communica-
52 tion and of any action taken thereon by the institution.

53 The commissioner of banking, in his or her discretion,
54 may: (a) Accept a copy of a reasonably current examina-
55 tion of any banking institution made by the federal deposit
56 insurance corporation or the federal reserve system in lieu
57 of an examination of the banking institution required or
58 authorized to be made by the laws of this state and the
59 commissioner may furnish to the federal deposit insurance
60 corporation or the federal reserve system or to any official
61 or examiner thereof any copy or copies of the commis-
62 sioner's examinations of and reports on the banking
63 institutions; (b) accept a copy of a reasonably current
64 examination of any out-of-state bank or any West Virginia
65 state bank's out-of-state activities made by another state's
66 banking regulatory authority in lieu of an examination of
67 the banking institution required or authorized to be made
68 by the laws of this state and the commissioner may furnish
69 to such other state's banking regulatory authority or to
70 any official or examiner thereof any copy or copies of the
71 commissioner's examinations of and reports on such
72 banking institutions; but nothing herein shall be construed
73 to limit the duty and responsibility of banking institutions
74 to comply with all provisions of law relating to examina-
75 tions and reports, nor to limit the powers and authority of
76 the commissioner of banking with reference to examina-
77 tions and reports under existing laws. The provision or
78 exchange of examination reports and other records of
79 financial condition and individuals pursuant to coopera-

80 tive, coordinating or information-sharing agreements with
81 other bank supervisory agencies and persons as permitted
82 by this chapter under an agreement of confidentiality shall
83 not constitute a violation of section four of this article.

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within *is approved* this the *27th*
Day of *March*, 2003.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3-19-03

Time 4:30pm BW