WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2006

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4063

(By Delegates Ron Thompson, H. White and Perry)

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Passed March 2, 2006

In Effect Ninety Days from Passage
AN ACT to amend and reenact §31A-4-2 of the Code of West Virginia, 1931, as amended, relating to banks; authorizing use of certain banking terms in connection with the name of a business; and setting forth the limitations on such authorization.

Be it enacted by the Legislature of West Virginia:

That §31A-4-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.

§31A-4-2. Use of terms; unlawfully engaging in banking business; penalties; enforcement.
(a) No person doing business in this state, except a banking institution, a person authorized by the commissioner under the terms of this section or an insurer licensed pursuant to article three, chapter thirty-three of this code under a name including the terms set forth herein as of the thirty-first day of December, two thousand three, may use or advertise in connection with such business, or as a designation or title thereof, the term "bank," "banker," "banking," "banking company," "industrial bank," "savings bank" or "trust company" and the Insurance Commissioner shall notify the commissioner of each insurer so licensed. Notwithstanding the foregoing restriction, the term "banker" may be used in (1) the legal name of a real estate franchisor; and (2) the tradename of a real estate brokerage firm who is a current or future franchisee of a real estate franchise system, if in either case the use of the term "banker" stems from a family surname belonging to a principal or former principal of the firm, whether or not such principal or former principal is currently living. No person doing business in this state except a banking institution or a person authorized by the commissioner under this article may engage in the banking or trust business in this state. A nonbanking subsidiary of a bank holding company or a nonbanking subsidiary of a banking institution having a bank branch or bank main office in this state that provides trust services pursuant to section fourteen of this article may use the term "trust company" in its title and advertising. A trust entity owned jointly by federally insured depository institutions located within this state and authorized by the commissioner to operate in this state may use the term "trust company" in its title and advertising.

(b) It is unlawful for any person other than banking institutions, as herein excepted, to advertise or hold himself, herself, itself or themselves, as the case may be, out to the public in any manner indicating, directly, indirectly or by implication, that any of them are engaged in the banking or trust business or is authorized and approved to engage therein in this state.
A nonbanking subsidiary of a bank holding company or nonbanking subsidiary of a banking institution having a bank branch or bank main office in this state that provides trust services pursuant to section fourteen of this article may hold itself out to the public as engaged in the trust business. A trust entity owned jointly by federally insured depository institutions located within this state and authorized by the commissioner to operate in this state may hold itself out to the public as engaged in the trust business.

(c) The commissioner may authorize a person to use the term “bank,” or “banc” in connection with nonprofit organizations or medical businesses where the term would have a common meaning separate and apart from a financial institution and would not result in confusion to the public (e.g., food bank; medical databank); and in connection with bank holding companies or their nonbanking affiliates where the term denotes the entities’ common affiliation and would not result in confusion to the public.

(d) Any violation of the provisions of this section is a misdemeanor offense, punishable as provided in section fifteen, article eight of this chapter.

(e) The Commissioner of Banking, or any one or more banking institutions, acting individually or jointly may petition the circuit court of the county in which any violation of the provisions of this section occur or are threatened to occur for injunction or other appropriate judicial remedies for enforcement of the provisions of this section and the prevention of further or continued violations of this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 13th day of March, 2006.

Governor