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SB 243

FILED

2006 MAR 22 P 2: 15

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2006



ENROLLED

Committee Substitute for

SENATE BILL NO. 243

(By Senator Minard, et al)



PASSED March 7, 2006

In Effect 90 days from Passage

FILED

2006 MAR 22 P 2: 15

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 243

(SENATORS MINARD, JENKINS AND MCCABE, *original sponsors*)

[Passed March 7, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §31A-8-5 of the Code of West Virginia, 1931, as amended, relating to allowing banks to own shares of their own stock in certain circumstances.

Be it enacted by the Legislature of West Virginia:

That §31A-8-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8. HEARINGS; ADMINISTRATIVE PROCEDURES; JUDICIAL REVIEW; UNLAWFUL ACTS; PENALTIES.

§31A-8-5. Dealing in own stock; stock purchases; limitations; exceptions.

- 1 (a) No banking institution shall make any loan or
- 2 discount any obligation on the security of the shares of its
- 3 own capital stock, unless taken as a pledge to prevent loss
- 4 upon a debt previously contracted lawfully and in good

5 faith; and all shares of its stock, held in such manner,
6 shall, within six months after the time of the pledge, be
7 sold or disposed of at public or private sale.

8 (b) A banking institution may purchase its equity
9 securities in an amount up to ten percent of its net worth
10 in any twelve-month period or restructure its ownership
11 interests for a legitimate corporate purpose without the
12 prior approval of the commissioner, so long as the bank
13 remains well-capitalized under federal regulatory guide-
14 lines before and after the purchase or restructuring, the
15 bank is well-managed, the bank is not the subject of any
16 unresolved supervisory issues and the transaction does not
17 constitute a change in control of the banking institution
18 that must be reported pursuant to section four of this
19 article. The banking institution must apply for approval
20 for the purchase of equity securities, on a form prescribed
21 by the commissioner, if the gross consideration for the
22 purchase, when aggregated with the net consideration paid
23 by the banking institution for all such purchases during
24 the preceding twelve months, is equal to ten percent or
25 more of the bank's net worth. For purposes of this section,
26 "net consideration" is the gross consideration paid by the
27 banking institution for all of its equity securities pur-
28 chased during the period minus the gross consideration
29 received for all of its equity securities sold during the
30 period. The commissioner shall approve or deny the
31 application after considering whether the proposed
32 purchase would constitute an unsafe or unsound practice.

33 (c) Any banking institution and any officer thereof who
34 violates any provision of this section shall be guilty of a
35 misdemeanor and subject to penalties provided in section
36 fifteen of this article.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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

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

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

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

The within *is approved* this the *22nd*
Day of *March*, 2006.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 17 2006

Time 11:00a