WEST VIRGINIA LEGISLATURE
Regular Session, 2006

ENROLLED

SENATE BILL NO. 244

(By Senators Minard, Jenkins, McCabe)

PASSED February 28, 2006

In Effect 90 days from Passage
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Senate Bill No. 244
(BY SENATORS MINARD, JENKINS AND MCCABE)

[Passed February 28, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §31A-4-13 of the Code of West Virginia, 1931, as amended, relating to powers of state banking institutions.

Be it enacted by the Legislature of West Virginia:

That §31A-4-13 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-4-13. Powers of state banking institutions generally.

1 (a) Any state-chartered banking institution has and may exercise all of the powers necessary for, or incidental to, the business of banking and, without limiting or restricting such general powers, it shall have the right to buy or discount promissory notes and bonds; negotiate drafts, bills of exchange and other evidences of indebtedness; borrow money; receive deposits on such terms and condi-
tions as its officers may prescribe; buy, sell or exchange
bank notes, bullion or coin; loan money on personal or
other security; rent safe-deposit boxes and receive on
deposit for safekeeping jewelry, plate, stocks, bonds and
personal property of whatsoever description; and provide
customer services incidental to the business of banking,
including, but not limited to, the issuance and servicing of
and lending money by means of credit cards as letters of
credit or otherwise. Any state-chartered banking institu-
tion may accept, for payment at a future date not to
exceed one year, drafts drawn upon it by its customers.
Any state-chartered banking institution may issue letters
of credit, with a specified expiration date or for a definite
term, authorizing the holders thereof to draw drafts upon
it or its correspondents, at sight or on time. Any such
banking institution may organize, acquire, own, operate,
dispose of and otherwise manage wholly owned subsidiary
corporations or entities that are jointly owned with other
insured depository institutions for purposes incident to the
banking powers and services authorized by this chapter
provided any wholly owned or jointly owned entities are
subject to federal and state examination and supervision
as if the activities are conducted by the bank.

(b) Any state-chartered banking institution may acquire,
own, hold, use and dispose of real estate which may not be
carried on its books at a value greater than the actual cost:
Provided, That the property must be necessary for the
convenient transaction of its business, including any
buildings, office space or other facilities to rent as a source
of income: Provided, however, That the investment
hereafter made may not exceed sixty-five percent of the
amount of its capital stock and surplus, unless the consent
in writing of the commissioner of banking is first secured.

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

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

(2) Such as may be conveyed to it in satisfaction of debts
previously contracted in the course of its business deal-
ings; and

(3) Such as it may purchase at sales under judgments,
decrees, trust deeds or mortgages in its favor, or may
purchase at private sale, to secure and effectuate the
payment of debts due to it.

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

(e) Any real estate acquired by any such banking institu-
tion under subdivisions (2) and (3), subsection (c) of this
section shall be disposed of by the banking institution at
the earliest practicable date, but the officers thereof shall
have a reasonable discretion in the matter of the time to
dispose of such property in order to save the banking
institution from unnecessary losses: Provided, That in
every case such property shall be disposed of within ten
years from the time it is acquired by the banking institu-
tion, unless an extension of time is given in writing by the
Commissioner of Banking.

(f) The sale of insurance by state-chartered banking
institutions is subject to the following:

Any state-chartered banking institution having its main
or a branch office in any place the population of which
does not exceed five thousand inhabitants, as shown by the
last preceding decennial census, through its employees or
agents, may, from that place or office, directly or through
a controlled subsidiary, act as agent for any fire, life,
casualty, liability or other insurance company authorized
by the authorities of the state to do business in this state,
by soliciting and selling insurance and collecting premi-
ums on policies issued by such company; and may receive
for services so rendered all permissible fees or commis-
sions as may be agreed upon between the bank and the
insurance company for which it may act as agent: Pro-
vided, That no bank may in any case assume or guarantee
the payment on insurance policies issued through its
agency by its principal: Provided, however, That the bank
may not guarantee the truth of any statement made by an
insured in filing his, her or its application for insurance.
For purposes of this section, a "controlled subsidiary" is
one in which the state-chartered banking institution owns
at least eighty percent of all classes of stock. This provi-
sion is intended to give state-chartered banking institu-
tions parity with national banks operating in this state
with regard to the marketing and sale of insurance,
notwithstanding the prohibitions and limitations con-
tained in article eight-c or elsewhere in this chapter and
shall be construed consistently with interpretations of 12
U. S. C. §92, the regulations promulgated thereunder and
any successor legislation or regulations.

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

(h) Unless waived in writing by the commissioner, a
state-chartered bank may not invest or otherwise expend
more of its capital and surplus calculated at the end of the
previous calendar year on the activities permitted by subsections (f) and (g) of this section on an aggregate basis together with any of its approved financially related products and services than would be allowed for a national bank providing the same services. For purposes of this section, “approved financially related products and services” means those products and services offered by a state-chartered bank pursuant to an approved application submitted under article eight-c of this chapter.

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

(j) Any state-chartered banking institution and its employees or agents engaged in the sale of insurance or annuities permitted hereby must also comply with all applicable requirements for the sale of such products imposed by the West Virginia Commissioner of Insurance and by any state or federal securities regulator.

(k) No state-chartered banking institution may hereafter invest more than twenty percent of the amount of its capital and surplus in furniture and fixtures, whether the same be installed in a building owned by the banking institution, or in quarters leased by it, unless the consent in writing of the Commissioner of Banking is first secured.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 10th Day of March, 2006.

Governor