WEST VIRGINIA LEGISLATURE
Regular Session, 2006

ENROLLED

SENATE BILL NO. 271

(By Senator Minard, et al.)

PASSED March 7, 2006

In Effect 90 days from Passage
ENROLLED

Senate Bill No. 271

(BY SENATORS MINARD, JENKINS, BARNES AND PLYMALE)

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

AN ACT to amend and reenact §31A-4-35 of the Code of West Virginia, 1931, as amended, relating to the time period for which state banks must retain records.

Be it enacted by the Legislature of West Virginia:

That §31A-4-35 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-4-35. Reproduction of checks and other records; admissibility of copies in evidence; disposition of originals; record production generally.

1 (a) Any bank may cause to be copied or reproduced, by any photographic, photostatic, microphotographic or by similar miniature photographic process or by nonerasable optical image disks (commonly referred to as compact disks) or by other records retention technology approved
by rule of the Commissioner of Banking, all or any number
of its checks and all or any part of its documents, books,
records, correspondence and all other instruments, papers
and writings in any manner relating to the operation of its
business, other than its notes, bonds, mortgages and other
securities and investments, and may substitute such copies
or reproductions either in positive or negative form for the
originals thereof. Thereafter, such copy or reproduction in
the form of a positive print thereof shall be deemed for all
purposes to be an original counterpart of and shall have
the same force and effect as the original thereof and shall
be admissible in evidence in all courts and administrative
agencies in this state, to the same extent and for the same
purposes as the original thereof, and the banking institu-
tion may destroy or otherwise dispose of the original, but
every banking institution shall retain either the originals
or such copies or reproductions of its records of final
entry, including, without limiting the generality of the
foregoing, cards used under the card system and deposit
tickets for deposits made, for a period of at least five years
from the date of the last entry on such books or the date of
making of such deposit tickets and card records or, in the
case of a banking institution exercising trust or fiduciary
powers, accounting and legal records shall be retained
until the expiration of five years from the date of termina-
tion of any trust or fiduciary relationship relating to such
accounting and legal records by a final accounting, release,
court decree or other proper means of termination and
supporting documentation for fiduciary account transac-
tions shall be retained for five years from the dates of
entry of such transactions.

All circumstances surrounding the making or issuance of
such checks, documents, books, records, correspondence
and other instruments, papers or writings, or the photo-
graphic, photostatic or microphotographic copies or
optical disks or other permissible reproductions thereof,
when the same are offered in evidence, may be shown to
affect the weight but not the admissibility thereof.
Any device used to copy or reproduce such documents and records shall be one which correctly and accurately reproduces the original thereof in all details and any disk or film used therein shall be of durable material.

(b) When a subpoena duces tecum is served upon a custodian of records of any bank in an action or proceeding in which the bank is neither a party nor the place where any cause of action is alleged to have arisen and the subpoena requires the production of all or any part of the records of the bank relating to the conduct of its business with its customers, the bank shall be entitled to a search fee not to exceed ten dollars, together with reimbursement for costs incurred in the copying or other reproduction of any such record or records which have already been reduced to written form, in an amount not to exceed seventy-five cents per page. Any and all such costs shall be borne by the party requesting the production of the record or records.
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 22nd Day of January, 2006.

Governor