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OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
Regular Session, 2006

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**ENROLLED**

SENATE BILL NO. 244

(By Senators Minard, Jenkins, McCabe)

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PASSED February 28, 2006

In Effect 90 days from Passage

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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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
- 2 exercise all of the powers necessary for, or incidental to,
- 3 the business of banking and, without limiting or restrict-
- 4 ing such general powers, it shall have the right to buy or
- 5 discount promissory notes and bonds; negotiate drafts,
- 6 bills of exchange and other evidences of indebtedness;
- 7 borrow money; receive deposits on such terms and condi-

8 tions as its officers may prescribe; buy, sell or exchange  
9 bank notes, bullion or coin; loan money on personal or  
10 other security; rent safe-deposit boxes and receive on  
11 deposit for safekeeping jewelry, plate, stocks, bonds and  
12 personal property of whatsoever description; and provide  
13 customer services incidental to the business of banking,  
14 including, but not limited to, the issuance and servicing of  
15 and lending money by means of credit cards as letters of  
16 credit or otherwise. Any state-chartered banking institu-  
17 tion may accept, for payment at a future date not to  
18 exceed one year, drafts drawn upon it by its customers.  
19 Any state-chartered banking institution may issue letters  
20 of credit, with a specified expiration date or for a definite  
21 term, authorizing the holders thereof to draw drafts upon  
22 it or its correspondents, at sight or on time. Any such  
23 banking institution may organize, acquire, own, operate,  
24 dispose of and otherwise manage wholly owned subsidiary  
25 corporations or entities that are jointly owned with other  
26 insured depository institutions for purposes incident to the  
27 banking powers and services authorized by this chapter  
28 provided any wholly owned or jointly owned entities are  
29 subject to federal and state examination and supervision  
30 as if the activities are conducted by the bank.

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

41 (c) Any state-chartered banking institution may acquire,  
42 own, hold, use and dispose of real estate which shall be  
43 carried on its books at the lower of fair value or cost as

44 defined in rules promulgated by the Commissioner of  
45 Banking, subject to the following limitations:

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

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

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

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

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

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

72 Any state-chartered banking institution having its main  
73 or a branch office in any place the population of which  
74 does not exceed five thousand inhabitants, as shown by the  
75 last preceding decennial census, through its employees or  
76 agents, may, from that place or office, directly or through  
77 a controlled subsidiary, act as agent for any fire, life,

78 casualty, liability or other insurance company authorized  
79 by the authorities of the state to do business in this state,  
80 by soliciting and selling insurance and collecting premi-  
81 ums on policies issued by such company; and may receive  
82 for services so rendered all permissible fees or commis-  
83 sions as may be agreed upon between the bank and the  
84 insurance company for which it may act as agent: *Pro-*  
85 *vided*, That no bank may in any case assume or guarantee  
86 the payment on insurance policies issued through its  
87 agency by its principal: *Provided, however*, That the bank  
88 may not guarantee the truth of any statement made by an  
89 insured in filing his, her or its application for insurance.  
90 For purposes of this section, a "controlled subsidiary" is  
91 one in which the state-chartered banking institution owns  
92 at least eighty percent of all classes of stock. This provi-  
93 sion is intended to give state-chartered banking institu-  
94 tions parity with national banks operating in this state  
95 with regard to the marketing and sale of insurance,  
96 notwithstanding the prohibitions and limitations con-  
97 tained in article eight-c or elsewhere in this chapter and  
98 shall be construed consistently with interpretations of 12  
99 U. S. C. §92, the regulations promulgated thereunder and  
100 any successor legislation or regulations.

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

112 (h) Unless waived in writing by the commissioner, a  
113 state-chartered bank may not invest or otherwise expend  
114 more of its capital and surplus calculated at the end of the

115 previous calendar year on the activities permitted by  
116 subsections (f) and (g) of this section on an aggregate basis  
117 together with any of its approved financially related  
118 products and services than would be allowed for a national  
119 bank providing the same services. For purposes of this  
120 section, "approved financially related products and  
121 services" means those products and services offered by a  
122 state-chartered bank pursuant to an approved application  
123 submitted under article eight-c of this chapter.

124 (i) The commissioner shall promulgate rules in accor-  
125 dance with chapter twenty-nine-a of this code relating to  
126 the sale of insurance or annuities, including, but not  
127 limited to, rules requiring notice of the intention to engage  
128 in such activities and relating to the policies and proce-  
129 dures state-chartered banking institutions should adopt in  
130 connection with these activities.

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

137 (k) No state-chartered banking institution may hereafter  
138 invest more than twenty percent of the amount of its  
139 capital and surplus in furniture and fixtures, whether the  
140 same be installed in a building owned by the banking  
141 institution, or in quarters leased by it, unless the consent  
142 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.

*Clancy White*  
.....  
Chairman Senate Committee

*R. B.*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Darrell Holmes*  
.....  
Clerk of the Senate

*Bugsy D. Sn*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*Robert S. D.*  
.....  
Speaker House of Delegates

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

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 06 2006

Time 3:32 pm