

SB 183  
(veto)

FILED

2007 APR -4 AM 11:20

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2007**

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**ENROLLED**

**Senate Bill No. 183**

(By SENATORS MINARD, BARNES AND KESSLER)

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[Passed March 5, 2007; in effect ninety days from passage.]

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## Senate Bill No. 183

(BY SENATORS MINARD, BARNES AND KESSLER)

[Passed March 5, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §31A-8A-2 and §31A-8A-3 of the Code of West Virginia, 1931, as amended, all relating to providing that the Board of Banking and Financial Institutions has the authority to approve acquisitions of out-of-state banks and bank holding companies by West Virginia state banks or bank holding companies.

*Be it enacted by the Legislature of West Virginia:*

That §31A-8A-2 and §31A-8A-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 8A. ACQUISITION OF BANKS BY BANK HOLDING COMPANIES.****§31A-8A-2. Scope and statement of legislative intent.**

1       This article sets forth the conditions under which a  
2       company may acquire a West Virginia state bank, may  
3       form or acquire a West Virginia bank holding company  
4       or may acquire an out-of-state bank or out-of-state  
5       bank holding company. This article is intended not to  
6       discriminate against out-of-state bank holding  
7       companies or against foreign bank holding companies in  
8       any manner that would violate Section 3(d) of the Bank  
9       Holding Company Act, 12 U. S. C. §1842(d), as  
10       amended, effective the twenty-ninth day of September,  
11       one thousand nine hundred ninety-five, by Section 101  
12       of the Riegle-Neal Interstate Banking and Branching  
13       Efficiency Act of 1994, Public Law No. 103-328.

**§31A-8A-3. Permitted acquisitions.**

1       (a) Except as otherwise expressly permitted by federal  
2       law, a company may not form a West Virginia bank  
3       holding company or acquire a West Virginia state bank  
4       or a bank holding company controlling a West Virginia  
5       state bank without the prior application and approval  
6       upon order of the board. A West Virginia state bank or  
7       West Virginia state bank holding company which  
8       controls, directly or indirectly, a West Virginia state  
9       bank may not acquire an out-of-state bank or out-of-  
10       state bank holding company without first filing with the  
11       commissioner a copy of the application it files with the  
12       appropriate federal regulator unless the acquisition  
13       involves a merger and establishment of branches  
14       pursuant to article eight-d of this chapter.

15 (b) The prohibition in subsection (a) of this section  
16 shall not apply where the acquisition is made:

17 (1) Solely for the purpose of facilitating an acquisition  
18 otherwise permitted under this article;

19 (2) In a transaction arranged by the commissioner  
20 with the consent of the West Virginia Board of Banking  
21 and Financial Institutions with another state or federal  
22 bank supervisory agency to prevent the insolvency or  
23 closing of the acquired bank; or

24 (3) In a transaction in which a national bank or out-  
25 of-state state bank forms its own bank holding  
26 company, if the ownership rights of the former bank  
27 shareholders are substantially similar to those of the  
28 shareholders of the new bank holding company.

29 (c) In any transaction involving the acquisition or  
30 change in control of a West Virginia bank, West Virginia  
31 bank holding company, bank branch located in West  
32 Virginia by a bank holding company, the formation of a  
33 West Virginia bank holding company or the acquisition  
34 of a thrift institution in West Virginia by a bank holding  
35 company for which an application to the board for  
36 approval is not initially required under subsection (a) of  
37 this section, the party seeking the action shall give  
38 written notice to the commissioner at the time the  
39 application or notice is filed with the responsible federal  
40 bank supervisory agency and at least forty-five days  
41 before the effective date of the acquisition, unless a  
42 shorter period of notice is required under applicable  
43 federal law. In addition, the parties shall give the  
44 commissioner copies of all final federal and state  
45 applications filed in connection with the transaction

46 together with a two hundred fifty-dollar filing fee.  
47 Unless preempted by federal law, the commissioner has  
48 thirty days from receipt of the written notice to object  
49 to any proposed transaction, require an application and  
50 request a hearing before the board on the basis that the  
51 transaction is contrary to applicable West Virginia law.  
52 The failure to object within thirty days shall be  
53 construed as consent by the commissioner or, in his or  
54 her discretion, the commissioner may, at any time,  
55 consent in writing.

56 (d) To the extent that any acquisition under this  
57 section involves the merger of a bank with and into a  
58 West Virginia state bank, the merger transaction  
59 remains subject to the jurisdiction and approval of the  
60 board pursuant to section seven, article seven of this  
61 chapter or article eight-d of this chapter, as applicable.

62 (e) An acquisition shall not be permitted under this  
63 article or otherwise if upon consummation of the  
64 transaction, the resulting bank or bank holding  
65 company, including any depository institutions  
66 affiliated with the applicant, would assume sufficient  
67 additional deposits to cause it to control deposits in this  
68 state in excess of that allowed by section twelve-a,  
69 article two of this chapter: *Provided*, That the  
70 commissioner may by rule adopt a procedure whereby  
71 the acquisition deposit limitation as set forth in this  
72 code may be waived for good cause shown. The  
73 commissioner shall calculate the acquisition deposit  
74 limitation based upon the most recently available  
75 reports containing the deposit information filed with  
76 state or federal authorities.

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 disapproved* ..... this  
the *4<sup>th</sup>* Day of *April* ....., 2007.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 20 2007

Time 3:30 pm