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OFFICE WEST VIRGINIA  
SENATE BILL NO. 283 SECRETARY OF STATE

(BY SENATORS NOHE, GAUNCH AND PLYMALE)

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[Passed March 11, 2015; in effect ninety days from passage.]

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AN ACT to amend and reenact §31A-4-40 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31A-8-12d of said code, all relating to state banking institutions; removing restrictions on closure of banks on weekdays; removing requirement of board resolution and legal advertisement for any change in days or hours a bank office is open for business; establishing certain requirements to be met prior to changing days or hours a bank office is open for business; and reducing time for consideration of expedited branch applications from thirty-five days to twenty-one days.

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

That §31A-4-40 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §31A-8-12d of said code be amended and reenacted, all to read as follows:

**ARTICLE 4. BANKING INSTITUTIONS AND SERVICES  
GENERALLY.**

**§31A-4-40. Permissive closing on fixed weekday or portions of weekdays;  
notice of closings; emergency closings; procedures.**

1           (a) Any banking institution may elect to operate branches  
2 that are open for business on the days and for the hours as  
3 determined appropriate by that banking institution. Prior to  
4 changing the days or hours a branch or main office will be  
5 open for business, the banking institution shall provide notice  
6 of the change to its customers in the form of conspicuous  
7 signage in the lobby and any drive-through lanes at that  
8 branch posted at least forty-five days prior to the change.  
9 The banking institution shall also provide the Commissioner  
10 of Financial Institutions with forty-five days' advance written  
11 notice of the change.

12           (b) Any banking institution may close, without notice,  
13 during any period of actual or threatened enemy attack  
14 affecting the community in which the banking institution is  
15 located or during any period of other emergency including,  
16 but not limited to, fire, flood, hurricane, riot, snow or civil  
17 commotion: *Provided*, That the commissioner shall be  
18 notified of any closing made pursuant to this subsection as  
19 soon as practical thereafter.

20           (c) Any fixed weekday and/or portion of one or more  
21 weekdays on which any banking institution elects to close  
22 and any period during which the commissioner may permit it  
23 to close pursuant to the authority of this section is a legal  
24 holiday with respect to the banking institution and not a  
25 business day or banking day for the purposes of the law  
26 relating to negotiable instruments and any act or contract  
27 authorized, required or permitted to be carried out or  
28 performed at, by or with respect to the banking institution  
29 may be performed on the next business or banking day and  
30 no liability or loss of rights on the part of any person or  
31 banking institution shall result therefrom.

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

**§31A-8-12d. Expedited procedure for authorization of de novo branch banks.**

1           (a) As an alternative to using the procedures established  
2 in subdivisions (g) through (j), inclusive, section twelve of  
3 this article, a banking institution desiring to establish a  
4 branch bank by de novo construction or lease may file a  
5 notice, containing information as prescribed by the  
6 commissioner, of its intent which must be received by the  
7 commissioner at least twenty-one days prior to the date on  
8 which the proposed branch will be established accompanied  
9 by a fee of \$250. The commissioner shall provide written  
10 notice of his or her acceptance or rejection of the branch  
11 notice prior to the expiration of the 21-day period. However,  
12 if the commissioner requests additional information from the  
13 branching institution, the period for the commissioner's  
14 consideration of the notice is extended an additional fifteen  
15 days from the time the information requested is received by  
16 the commissioner.

17           (b) A state banking institution may not establish a branch  
18 bank under this section until the commissioner provides  
19 written approval of the notice for that branch bank. The  
20 commissioner's approval or rejection of the notice must be  
21 accompanied by findings of fact on whether the applicant  
22 bank:

23           (1) Satisfies such reasonable and appropriate  
24 requirements as to sound financial condition. For purposes  
25 of this subdivision, "sound financial condition" means that  
26 a state banking institution meets the required minimum level  
27 to be well capitalized for each capital measure as  
28 determined by its primary federal regulator and is not  
29 subject to supervisory action by either a state or federal  
30 financial regulatory agency;

31           (2) Meets a satisfactory standard of compliance with  
32 federal and state community reinvestment act requirements as  
33 evidenced by its most recent state or federal examination;

34           (3) Meets a satisfactory standard of compliance with  
35 federal and state consumer compliance law and regulations as  
36 evidenced by its most recent state or federal regulatory  
37 examination;

38           (4) Meets the acceptable standards for investment in  
39 premises and fixed assets as permitted by section thirteen,  
40 article four of this chapter; and

41           (5) Does not present a significant supervisory concern or  
42 raise a significant legal or policy issue by filing the  
43 application.

44           (c) Any party who is adversely affected by an action of  
45 the commissioner taken pursuant to the criteria established by  
46 subsection (b) of this section may appeal within ten business  
47 days of the commissioner's decision to the Board of Banking  
48 and Financial Institutions which must, after holding a hearing  
49 pursuant to the provisions of subdivision (12), subsection (b),  
50 section two, article three of this chapter, affirm, reverse or  
51 modify the order of the commissioner. Any party who is  
52 adversely affected by an order of the Board of Banking and  
53 Financial Institutions issued pursuant to the provisions of this  
54 subsection is entitled to judicial review in the same manner  
55 as provided by the provisions of subsection (k), section  
56 twelve 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 of the House of Delegates*

The within is approved this the 18th  
Day of March, 2015.

*[Signature]*  
.....  
*Governor*

PRESENTED TO THE GOVERNOR

MAR 16 2015

Time 11:15 AM