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HB4063

FILED

2006 MAR 13 P 3: 34

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4063

(By Delegates Ron Thompson, H. White and Perry)



Passed March 2, 2006

In Effect Ninety Days from Passage

FILED

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FOR

H. B. 4063

(BY DELEGATES RON THOMPSON, H. WHITE AND PERRY)

[Passed March 2, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §31A-4-2 of the Code of West Virginia, 1931, as amended, relating to banks; authorizing use of certain banking terms in connection with the name of a business; and setting forth the limitations on such authorization.

Be it enacted by the Legislature of West Virginia:

That §31A-4-2 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-4-2. Use of terms; unlawfully engaging in banking business; penalties; enforcement.

1 (a) No person doing business in this state, except a banking
2 institution, a person authorized by the commissioner under the
3 terms of this section or an insurer licensed pursuant to article
4 three, chapter thirty-three of this code under a name including
5 the terms set forth herein as of the thirty-first day of December,
6 two thousand three, may use or advertise in connection with
7 such business, or as a designation or title thereof, the term
8 “bank,” “banker,” “banking,” “banking company,” “industrial
9 bank,” “savings bank” or “trust company” and the Insurance
10 Commissioner shall notify the commissioner of each insurer so
11 licensed. Notwithstanding the foregoing restriction, the term
12 “banker” may be used in (1) the legal name of a real estate
13 franchisor; and (2) the tradename of a real estate brokerage firm
14 who is a current or future franchisee of a real estate franchise
15 system, if in either case the use of the term “banker” stems from
16 a family surname belonging to a principal or former principal
17 of the firm, whether or not such principal or former principal is
18 currently living. No person doing business in this state except
19 a banking institution or a person authorized by the commis-
20 sioner under this article may engage in the banking or trust
21 business in this state. A nonbanking subsidiary of a bank
22 holding company or a nonbanking subsidiary of a banking
23 institution having a bank branch or bank main office in this
24 state that provides trust services pursuant to section fourteen of
25 this article may use the term “trust company” in its title and
26 advertising. A trust entity owned jointly by federally insured
27 depository institutions located within this state and authorized
28 by the commissioner to operate in this state may use the term
29 “trust company” in its title and advertising.

30 (b) It is unlawful for any person other than banking
31 institutions, as herein excepted, to advertise or hold himself,
32 herself, itself or themselves, as the case may be, out to the
33 public in any manner indicating, directly, indirectly or by
34 implication, that any of them are engaged in the banking or trust
35 business or is authorized and approved to engage therein in this

36 state. A nonbanking subsidiary of a bank holding company or
37 nonbanking subsidiary of a banking institution having a bank
38 branch or bank main office in this state that provides trust
39 services pursuant to section fourteen of this article may hold
40 itself out to the public as engaged in the trust business. A trust
41 entity owned jointly by federally insured depository institutions
42 located within this state and authorized by the commissioner to
43 operate in this state may hold itself out to the public as engaged
44 in the trust business.

45 (c) The commissioner may authorize a person to use the
46 term "bank," or "banc" in connection with nonprofit organiza-
47 tions or medical businesses where the term would have a
48 common meaning separate and apart from a financial institution
49 and would not result in confusion to the public (e.g., food bank;
50 medical databank); and in connection with bank holding
51 companies or their nonbanking affiliates where the term denotes
52 the entities' common affiliation and would not result in
53 confusion to the public.

54 (d) Any violation of the provisions of this section is a
55 misdemeanor offense, punishable as provided in section fifteen,
56 article eight of this chapter.

57 (e) The Commissioner of Banking, or any one or more
58 banking institutions, acting individually or jointly may petition
59 the circuit court of the county in which any violation of the
60 provisions of this section occur or are threatened to occur for
61 injunction or other appropriate judicial remedies for enforce-
62 ment of the provisions of this section and the prevention of
63 further or continued violations of this section.

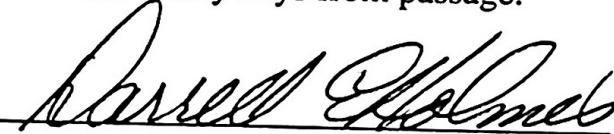
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

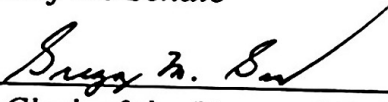

Chairman Senate Committee

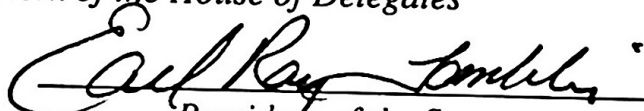

Chairman House Committee


Originating in the House.

In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 13th
day of April, 2006.


Governor

PRESENTED TO THE
GOVERNOR

MAR 07 2006

Time

4:10 pm