

HB 4018

FILED

2008 MAR 15 PM 12: 48

CRISTINA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2008



# ENROLLED

COMMITTEE SUBSTITUTE

FOR

**House Bill No. 4018**

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)  
[By Request of the Executive]



Passed March 8, 2008

In Effect from Passage

**ENROLLED**

FILED

2008 MAR 15 PM 12:48

COMMITTEE SUBSTITUTE

FOR

OFFICE OF THE  
SECRETARY OF STATE

## **H. B. 4018**

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(BY MR. SPEAKER, MR. THOMPSON, AND DELEGATE ARMSTEAD)  
[BY REQUEST OF THE EXECUTIVE]

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[Passed March 8, 2008; in effect from passage.]

AN ACT to amend and reenact §12-1A-1, §12-1A-3, §12-1A-4, §12-1A-5, §12-1A-6 and §12-1A-9 of the Code of West Virginia, 1931, as amended, all relating to the renewal of the West Virginia Small Business Linked Deposit Program.

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

That §12-1A-1, §12-1A-3, §12-1A-4, §12-1A-5, §12-1A-6 and §12-1A-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

### **ARTICLE 1A. WEST VIRGINIA SMALL BUSINESS LINKED DEPOSIT PROGRAM.**

#### **§12-1A-1. Definitions.**

- 1       (a) "Treasurer" means the West Virginia Treasurer's  
2       Office.

3 (b) "Eligible small business" means any business that:  
4 (1) Employs fifty or fewer employees and has gross annual  
5 receipts of five million dollars or less; (2) is headquartered in  
6 this state; (3) is organized for profit; and (4) complies with  
7 the terms and conditions of this article regarding eligibility.

8 (c) "Eligible lending institution" means a financial  
9 institution that is eligible to make commercial loans, is a  
10 public depository of state funds and agrees to participate in  
11 the linked deposit program and comply with its terms and  
12 conditions.

13 (d) "Linked deposit" means a deposit placed by the  
14 Treasurer with an eligible lending institution that agrees to  
15 lend a linked deposit loan to an eligible small business. The  
16 amount of the deposit is equal to the amount of the linked  
17 deposit loan at an interest rate of three percent below the  
18 current market rate as determined and calculated by the  
19 Treasurer, but in no event may the interest rate on the deposit  
20 be less than zero percent. The linked deposit may be placed  
21 with the eligible lending institution for up to seven years  
22 depending upon whether the small business remains eligible  
23 for the program. On an annual date, as determined by the  
24 Treasurer, the rate paid to the Treasurer shall be recomputed  
25 based upon the current market rate. If the rate is recomputed,  
26 the amount of the deposit shall be reduced by the amount of  
27 principal paid on the outstanding loan.

28 (e) "Linked deposit loan" means a loan between an  
29 eligible lending institution and an eligible small business for  
30 an amount not to exceed two hundred fifty thousand dollars  
31 at a rate of not more than one percent above the prime  
32 interest rate as published by the Wall Street Journal on the  
33 date the Treasurer receives the linked deposit request. In  
34 exchange for providing this reduced rate loan, the eligible  
35 lending institution receives a linked deposit. On an annual

36 date, as determined by the Treasurer, the rate charged to the  
37 eligible small business may be recomputed but shall not  
38 exceed the prime interest rate plus one percent. If the rate is  
39 recomputed, the amount of the deposit shall be reduced by  
40 the amount of principal paid on the outstanding loan. The  
41 linked deposit loan may be part of a comprehensive loan  
42 package, including guaranteed loans by the United States  
43 small business administration, or other federal or state agency  
44 providing a partial or full guarantee against loss to the  
45 eligible lending institution.

46 (f) "Small Business Development Center" means the  
47 West Virginia Small Business Development Center, a  
48 division of the West Virginia Development Office.

**§12-1A-3. Limitations on investment in linked deposits.**

1 The Treasurer shall invest in linked deposits. The total  
2 amount deposited at any one time shall not exceed, in the  
3 aggregate, twenty million dollars. When deciding how much  
4 to invest in linked deposits, the Treasurer shall give priority  
5 to the investment, liquidity and cash flow needs of the state.

**§12-1A-4. Applications for loan priority; loan package;  
counseling.**

1 (a) An eligible lending institution that desires to  
2 participate in the linked deposit program shall accept and  
3 review loan applications from eligible small businesses that  
4 have been prepared with the advice of the Small Business  
5 Development Center. The lending institution shall apply all  
6 usual lending standards to determine the credit worthiness of  
7 each eligible small business and whether the loan application  
8 meets the criteria established in this article.

9 (b) An eligible small business shall certify on its loan  
10 application that: (1) The small business is in good standing  
11 with the State Tax Division, the Workers' Compensation  
12 Commission and the Bureau of Employment Programs as of  
13 the date of the application; (2) the linked deposit loan will be  
14 used to create new jobs or preserve existing jobs and  
15 employment opportunities; and (3) the linked deposit loan  
16 shall not be used to refinance an existing debt.

17 (c) In considering which eligible small businesses should  
18 receive linked deposit loans, the eligible lending institution  
19 shall give priority to the economic needs of the area in which  
20 the business is located, the number of jobs to be created and  
21 preserved by the receipt of the loan, the reasonable ability of  
22 the small business to repay the loan and other factors  
23 considered appropriate by the eligible financial institution.

24 (d) A small business receiving a linked deposit loan shall  
25 receive supervision and counseling provided by the small  
26 business development center when applying for the loan. The  
27 services available from the Small Business Development  
28 Center include eligibility certification, business planning,  
29 quarterly financial statement review and loan application  
30 assistance. The State Tax Division, the Bureau of  
31 Employment Programs and the Workers' Compensation  
32 Commission shall provide the Small Business Development  
33 Center with information as to the standing of each small  
34 business loan applicant. The Small Business Development  
35 Center shall include these certifications with the loan  
36 application.

37 (e) After all approvals of the Small Business  
38 Development Center and the financial institution have been  
39 given for a linked deposit loan, the Small Business  
40 Development Center and the financial institution shall  
41 forward to the Treasurer a linked deposit loan request in the

42 form and manner prescribed by the Treasurer. The Treasurer  
43 shall notify the Small Business Development Center when  
44 the linked deposit is made.

**§12-1A-5. Acceptance or rejection of loan package; deposit agreement for linked deposits.**

1 (a) The Treasurer may accept or reject a linked deposit  
2 loan request or any portion of a request based on the criteria  
3 prescribed by this article.

4 (b) Upon approving the linked deposit loan request, the  
5 Treasurer shall place a linked deposit with the lending  
6 institution.

7 (c) The eligible lending institution shall enter into a  
8 deposit agreement with the Treasurer in a form prescribed by  
9 the Treasurer and in compliance with the requirements of this  
10 article.

**§12-1A-6. Certification and monitoring of compliance; accountability and reporting.**

1 (a) Upon the placement of a linked deposit with an  
2 eligible lending institution, the institution shall lend the funds  
3 to the approved eligible small business listed in the linked  
4 deposit loan package. A certification of compliance with this  
5 section shall be sent to the Small Business Development  
6 Center by the eligible lending institution.

7 (b) As a condition of remaining in good standing with  
8 the lending institution and the state and as a condition of  
9 having the loan for up to seven years, the loan recipient shall  
10 receive supervision and counseling provided by the Small  
11 Business Development Center. Eligible small businesses  
12 shall also grant the lending institution the right to provide

13 information on the status of the loan to the Small Business  
14 Development Center so as to assist the small business.

15 (c) The Small Business Development Center shall take  
16 any and all steps necessary to implement, advertise and  
17 monitor compliance with the linked deposit program.

18 (d) By the thirty-first day of January of each year, the  
19 Small Business Development Center shall report on the  
20 linked deposit program for the preceding calendar year to the  
21 West Virginia Development Office, which shall then report  
22 to the Joint Committee on Government and Finance. The  
23 reports shall set forth the name of the small business, terms,  
24 delinquency and default rates, job growth, gross income  
25 evaluation and amounts of the loans upon which the linked  
26 deposits were based.

**§12-1A-9. Effective dates.**

1 This article shall be effective from the amendment and  
2 reenactment of this article during the regular session of the  
3 Legislature in two thousand eight, through the first day of  
4 July, two thousand thirteen.

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

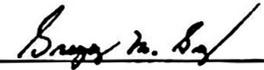
  
Chairman Senate Committee

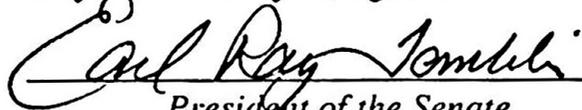
  
Chairman House Committee

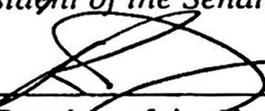
Originating in the House.

In effect from passage.

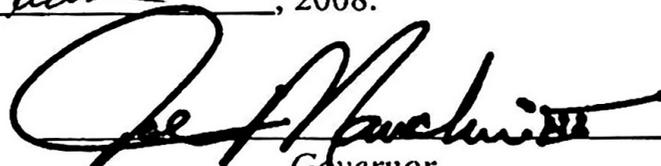
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 15<sup>th</sup>  
day of October, 2008.

  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 13 2008

Time 2:40pm