

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 2882**

5 (By Delegates Perry, Moore, Reynolds, Hall,  
6 Walters, Hartman, J. Miller, Azinger  
7 and Ashley)

8 [Passed February 22,2011; in effect ninety days from passage.]

9  
10 AN ACT to amend and reenact §31A-2-8 of the Code of West Virginia,  
11 1931, as amended, relating to the Commissioner's Assessment  
12 and Examination Fund; allowing the Commissioner of Banking to  
13 assess state banking institutions quarterly rather than on a  
14 semiannual basis by establishing additional assessment dates  
15 on April 1 and October 1; and providing that the Commissioner  
16 of Banking shall prepare and send bank assessments by March 15  
17 and September 15.

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

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

21 **ARTICLE 2. DIVISION OF BANKING.**

22 **§31A-2-8. Commissioner's assessments and examination fund;**  
23 **assessments, costs and expenses of examinations;**  
24 **collection.**

1 (a) All moneys collected by the commissioner from financial  
2 institutions and bank holding companies for assessments,  
3 examination fees, investigation fees or other necessary expenses  
4 incurred by the commissioner in administering such duties shall be  
5 paid to the commissioner and paid by the commissioner to the  
6 treasurer of the state to the credit of a special revenue account  
7 to be known as the "commissioner's assessment and examination fund"  
8 which is hereby established. The assessments and fees paid into  
9 this account shall be appropriated by law and used to pay the costs  
10 and expenses of the Division of Banking and all incidental costs  
11 and expenses necessary for its operations. At the end of each  
12 fiscal year, if the fund contains a sum of money in excess of  
13 twenty percent of the appropriated budget of the Division of  
14 Banking, the amount of the excess shall be transferred to the  
15 General Revenue Fund of the state. The Legislature may appropriate  
16 money to start the special revenue account.

17 (b) The commissioner of banking shall charge and collect from  
18 each state banking institution or other financial institution or  
19 bank holding company and pay into a special revenue account in the  
20 State Treasury for the Division of Banking assessments as follows:

21 (1) For each state banking institution, a quarterly assessment  
22 payable on January 1, April 1, July 1, and October 1 each year,  
23 computed upon the total assets of the banking institution shown on  
24 the report of condition of the banking institution filed as of the

1 preceding June 30, September 30, December 31 and March 31,  
 2 respectively, as follows:

3 **Total Assets**

| 4  |                | <b>But Not</b> |               |             | <b>Of Excess</b> |
|----|----------------|----------------|---------------|-------------|------------------|
| 5  | <b>Over</b>    | <b>Over</b>    | <b>This</b>   |             | <b>Over</b>      |
| 6  | <b>Million</b> | <b>Million</b> | <b>Amount</b> | <b>Plus</b> | <b>Million</b>   |
| 7  | \$ 0           | \$ 2           | \$ 0          | .001645020  | 0                |
| 8  | 2              | 20             | 3,290         | .000205628  | 2                |
| 9  | 20             | 100            | 6,991         | .000164502  | 20               |
| 10 | 100            | 200            | 20,151        | .000106926  | 100              |
| 11 | 200            | 1,000          | 30,844        | .000090476  | 200              |
| 12 | 1,000          | 2,000          | 103,225       | .000074026  | 1,000            |
| 13 | 2,000          | 6,000          | 177,251       | .000065801  | 2,000            |
| 14 | 6,000          | 20,000         | 440,454       | .000055988  | 6,000            |
| 15 | 20,000         | 40,000         | 1,224,292     | .000052670  | 20,000           |

16 (2) For each regulated consumer lender, an annual assessment  
 17 payable on July 1, each year, computed upon the total outstanding  
 18 gross loan balances and installment sales contract balances net of  
 19 unearned interest of the regulated consumer lender shown on the  
 20 report of condition of the regulated consumer lender as of the  
 21 preceding thirty-first day of December, respectively, as follows:

22 **Total Outstanding Balances**

| 23 |  | <b>But Not</b> | <b>This</b> |  | <b>Of Excess</b> |
|----|--|----------------|-------------|--|------------------|
|----|--|----------------|-------------|--|------------------|

|   | <b>Over</b> | <b>Over</b>  | <b>Amount</b> | <b>Plus</b> | <b>Over</b> |
|---|-------------|--------------|---------------|-------------|-------------|
| 1 |             |              |               |             |             |
| 2 | \$ 0        | \$ 1,000,000 | 800           | -           | -           |
| 3 | 1,000,000   | 5,000,000    | 800           | .000400     | 1,000,000   |
| 4 | 5,000,000   | 10,000,000   | 2,400         | .000200     | 5,000,000   |
| 5 | 10,000,000  | -            | 4,200         | .000100     | 10,000,000  |

6 If a regulated consumer lender's records or documents are  
7 maintained in more than one location in this state, then eight  
8 hundred dollars may be added to the assessment for each additional  
9 location.

10 In addition to the assessment provided in this subdivision,  
11 the commissioner shall charge and collect from each regulated  
12 consumer lender the actual and necessary costs and expenses  
13 incurred in connection with any examination of a regulated consumer  
14 lender.

15 (3) For each credit union, an annual assessment as provided  
16 for in section eight, article one, chapter thirty-one-c of this  
17 code as follows:

| <b>Total Assets</b> |             |                |               |             |                  |
|---------------------|-------------|----------------|---------------|-------------|------------------|
|                     | <b>Over</b> | <b>But Not</b> | <b>This</b>   | <b>Plus</b> | <b>Of Excess</b> |
|                     | <b>Over</b> | <b>Over</b>    | <b>Amount</b> | <b>Plus</b> | <b>Over</b>      |
| 21                  | \$ 0        | \$ 100,000     | 100           | -           | -                |
| 22                  | 100,000     | 500,000        | 300           | -           | -                |
| 23                  | 500,000     | 1,000,000      | 500           | -           | -                |
| 24                  | 1,000,000   | 5,000,000      | 500           | .000400     | 1,000,000        |

|   |            |            |       |         |            |
|---|------------|------------|-------|---------|------------|
| 1 | 5,000,000  | 10,000,000 | 2,100 | .000200 | 5,000,000  |
| 2 | 10,000,000 | -          | 3,100 | .000100 | 10,000,000 |

3 (4) For each bank holding company, an annual assessment as  
4 provided for in section eight, article eight-a of this chapter.  
5 The annual assessment may not exceed ten dollars per million  
6 dollars in deposits rounded off to the nearest million dollars.

7 (c) The commissioner shall each December March, June and  
8 September prepare and send to each state banking institution a  
9 statement of the amount of the assessment due. The commissioner  
10 shall further, each June, prepare and send to each regulated  
11 consumer lender and each state credit union a statement of the  
12 amount of the assessment due. The commissioner shall annually,  
13 during the month of January, prepare and send to each bank holding  
14 company a statement of the amount of the assessment due.

15 State banking institution assessments may be prescribed every  
16 three months, not later than June 15 September 15, December 15 and  
17 March 15 by written order of the commissioner, but shall not exceed  
18 the maximums as set forth in subsection (b) of this section. In  
19 setting the assessments the primary consideration shall be the  
20 amount appropriated by the Legislature for the Division of Banking  
21 for the corresponding annual period. Reasonable notice of the  
22 assessments shall be made to all interested parties. All orders of  
23 the commissioner for the purpose of setting assessments are not  
24 subject to the provisions of the West Virginia administrative

1 procedures act under chapter twenty-nine-a of this code.

2 (d) For making an examination within the state of any other  
3 financial institution for which assessments are not provided by  
4 this code, the commissioner of banking shall charge and collect  
5 from such other financial institution and pay into the special  
6 revenue account for the Division of Banking the actual and  
7 necessary costs and expenses incurred in connection therewith, as  
8 fixed and determined by the commissioner. Banks that provide only  
9 trust or other nondepository services, nonbanking subsidiaries of  
10 bank holding companies that provide trust services, nonbanking  
11 subsidiaries of banks that provide trust services and any trust  
12 entity that is jointly owned by federally insured depository  
13 institutions may be assessed for necessary costs and expenses  
14 associated with an examination pursuant to this subsection.

15 (e) If the records of an institution are located outside this  
16 state, the institution at its option shall make them available to  
17 the commissioner at a convenient location within the state or pay  
18 the reasonable and necessary expenses for the commissioner or his  
19 or her representatives to examine them at the place where they are  
20 maintained. The commissioner may designate representatives,  
21 including comparable officials of the state in which the records  
22 are located, to inspect them on his or her behalf.

23 (f) The commissioner of banking may maintain an action for the  
24 recovery of all assessments, costs and expenses in any court of

1 competent jurisdiction.  
2