

H. B. 2882

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

(By Request of the Division of Banking)

[Introduced January 27, 2011; referred to the
Committee on Banking and Insurance then the Judiciary.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. DIVISION OF BANKING.

§31A-2-8. Commissioner's assessments and examination fund; assessments, costs and expenses of examinations; 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 ~~semiannual~~ quarterly
22 assessment payable on January 1, ~~and April 1,~~ July 1, and October
23 1 each year, computed upon the total assets of the banking
24 institution shown on the report of condition of the banking

1 institution filed as of the preceding June 30 and December 31,
2 respectively, as follows:

3 **Total Assets**

4	But Not				
5	Over	Over	This	Plus	Of Excess
6	Million	Million	Amount	Plus	Million
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 December 31, respectively, as follows:

22 **Total Outstanding Balances**

23	But Not				Of Excess
24	Over	Over	Amount	Plus	Over

1	\$ 0	\$ 1,000,000	800	-	-
2	1,000,000	5,000,000	800	.000400	1,000,000
3	5,000,000	10,000,000	2,400	.000200	5,000,000
4	10,000,000	-	4,200	.000100	10,000,000

5 If a regulated consumer lender's records or documents are
6 maintained in more than one location in this state, then \$800 may
7 be added to the assessment for each additional location.

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

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

16 **Total Assets**

17	But Not	This		Of Excess	
18	Over	Amount	Plus	Over	
19	\$ 0	\$ 100,000	100	-	-
20	100,000	500,000	300	-	-
21	500,000	1,000,000	500	-	-
22	1,000,000	5,000,000	500	.000400	1,000,000
23	5,000,000	10,000,000	2,100	.000200	5,000,000
24	10,000,000	-	3,100	.000100	10,000,000

1

2 (4) For each bank holding company, an annual assessment as
3 provided for in section eight, article eight-a of this chapter. The
4 annual assessment may not exceed \$10 per \$1 million in deposits
5 rounded off to the nearest \$1 million.

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

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

1 West Virginia Administrative Procedures Act under chapter twenty-
2 nine-a of this code.

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

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

1 (f) The Commissioner of Banking may maintain an action for the
2 recovery of all assessments, costs and expenses in any court of
3 competent jurisdiction.

NOTE: The purpose of this bill is to allow the Commissioner of Banking to assess state banks on a quarterly rather than semiannual basis.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.