

COMMITTEE SUBSTITUTE

FOR

H. B. 2882

(BY DELEGATES PERRY, MOORE, REYNOLDS, HALL,
WALTERS, HARTMAN, J. MILLER, AZINGER AND ASHLEY)

(Originating in the Committee on Banking and Insurance)
[February 9,2011]

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
2 financial institutions and bank holding companies for
3 assessments, examination fees, investigation fees or other
4 necessary expenses incurred by the commissioner in
5 administering such duties shall be paid to the commissioner
6 and paid by the commissioner to the treasurer of the state to
7 the credit of a special revenue account to be known as the
8 "commissioner's assessment and examination fund" which is
9 hereby established. The assessments and fees paid into this
10 account shall be appropriated by law and used to pay the
11 costs and expenses of the Division of Banking and all
12 incidental costs and expenses necessary for its operations. At

13 the end of each fiscal year, if the fund contains a sum of
14 money in excess of twenty percent of the appropriated budget
15 of the Division of Banking, the amount of the excess shall be
16 transferred to the General Revenue Fund of the state. The
17 Legislature may appropriate money to start the special
18 revenue account.

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

24 (1) For each state banking institution, a ~~semiannuat~~
25 quarterly-assessment payable on January 1, ~~and April 1~~, July
26 1, and October 1 each year, computed upon the total assets of
27 the banking institution shown on the report of condition of
28 the banking institution filed as of the preceding ~~June 30 and~~
29 ~~December 31~~, June 30, September 30, December 31 and
30 March 31, respectively, as follows:

31	Total Assets				
32		But Not			Of Excess
33	Over	Over	This	Plus	Over
34	Million	Million	Amount		Million
35	\$ 0	\$ 2	\$ 0	.001645020	0
36	2	20	3,290	.000205628	2
37	20	100	6,991	.000164502	20
38	100	200	20,151	.000106926	100
39	200	1,000	30,844	.000090476	200
40	1,000	2,000	103,225	.000074026	1,000
41	2,000	6,000	177,251	.000065801	2,000
42	6,000	20,000	440,454	.000055988	6,000
43	20,000	40,000	1,224,292	.000052670	20,000

44 (2) For each regulated consumer lender, an annual
 45 assessment payable on July 1, each year, computed upon the
 46 total outstanding gross loan balances and installment sales
 47 contract balances net of unearned interest of the regulated
 48 consumer lender shown on the report of condition of the
 49 regulated consumer lender as of the preceding thirty-first day
 50 of December, respectively, as follows:

51	Total Outstanding Balances				
52		But Not	This		Of Excess
53	Over	Over	Amount	Plus	Over
54	\$ 0	\$ 1,000,000	800	-	-
55	1,000,000	5,000,000	800	.000400	1,000,000
56	5,000,000	10,000,000	2,400	.000200	5,000,000
57	10,000,000	-	4,200	.000100	10,000,000

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

62 In addition to the assessment provided in this subdivision,
63 the commissioner shall charge and collect from each
64 regulated consumer lender the actual and necessary costs and
65 expenses incurred in connection with any examination of a
66 regulated consumer lender.

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

70	Total Assets				
71		But Not	This		Of Excess
72	Over	Over	Amount	Plus	Over
73	\$ 0	\$ 100,000	100	-	-
74	100,000	500,000	300	-	-
75	500,000	1,000,000	500	-	-
76	1,000,000	5,000,000	500	.000400	1,000,000
77	5,000,000	10,000,000	2,100	.000200	5,000,000
78	10,000,000	-	3,100	.000100	10,000,000

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

84 (c) The commissioner shall each December ~~and each~~
 85 March, June and September prepare and send to each state
 86 banking institution a statement of the amount of the
 87 assessment due. The commissioner shall further, each June,
 88 prepare and send to each regulated consumer lender and each
 89 state credit union a statement of the amount of the assessment

90 due. The commissioner shall annually, during the month of
91 January, prepare and send to each bank holding company a
92 statement of the amount of the assessment due.

93 State banking institution assessments may be prescribed
94 every ~~six~~ three months, not later than June 15 and September
95 15, December 15; and March 15 by written order of the
96 commissioner, but shall not exceed the maximums as set
97 forth in subsection (b) of this section. In setting the
98 assessments the primary consideration shall be the amount
99 appropriated by the Legislature for the Division of Banking
100 for the corresponding annual period. Reasonable notice of
101 the assessments shall be made to all interested parties. All
102 orders of the commissioner for the purpose of setting
103 assessments are not subject to the provisions of the West
104 Virginia administrative procedures act under chapter twenty-
105 nine-a of this code.

106 (d) For making an examination within the state of any
107 other financial institution for which assessments are not
108 provided by this code, the commissioner of banking shall

109 charge and collect from such other financial institution and
110 pay into the special revenue account for the Division of
111 Banking the actual and necessary costs and expenses incurred
112 in connection therewith, as fixed and determined by the
113 commissioner. Banks that provide only trust or other
114 nondepository services, nonbanking subsidiaries of bank
115 holding companies that provide trust services, nonbanking
116 subsidiaries of banks that provide trust services and any trust
117 entity that is jointly owned by federally insured depository
118 institutions may be assessed for necessary costs and expenses
119 associated with an examination pursuant to this subsection.

120 (e) If the records of an institution are located outside this
121 state, the institution at its option shall make them available to
122 the commissioner at a convenient location within the state or
123 pay the reasonable and necessary expenses for the
124 commissioner or his or her representatives to examine them
125 at the place where they are maintained. The commissioner
126 may designate representatives, including comparable officials

127 of the state in which the records are located, to inspect them
128 on his or her behalf.

129 (f) The commissioner of banking may maintain an action
130 for the recovery of all assessments, costs and expenses in any
131 court of 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.