

# Senate Bill No. 274

(By Senators Minard, McCabe and Plymale)

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[Introduced January 26, 2011; referred to  
the Committee on Banking and Insurance.]

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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 admin-  
5 istering such duties shall be paid to the commissioner and  
6 paid by the commissioner to the Treasurer of the state to the  
7 credit of a special revenue account to be known as the  
8 “Commissioner’s Assessment and Examination Fund” which  
9 is 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  
15 budget of the Division of Banking, the amount of the excess  
16 shall be transferred to the General Revenue Fund of the  
17 state. The Legislature may appropriate money to start the  
18 special revenue account.

19       (b) The Commissioner of Banking shall charge and  
20 collect 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 ~~semiannual~~  
 25 quarterly assessment payable on January 1, ~~and April 1,~~ July  
 26 1, and October 1 each year, computed upon the total assets  
 27 of the banking institution shown on the report of condition  
 28 of the banking institution filed as of the preceding June 30  
 29 and December 31, respectively, as follows:

30 **Total Assets**

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

43 (2) For each regulated consumer lender, an annual assess-  
 44 ment payable on July 1, each year, computed upon the total  
 45 outstanding gross loan balances and installment sales  
 46 contract balances net of unearned interest of the regulated  
 47 consumer lender shown on the report of condition of the  
 48 regulated consumer lender as of the preceding December 31,  
 49 respectively, as follows:

50 **Total Outstanding Balances**

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

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

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

65 (3) For each credit union, an annual assessment as pro-  
 66 vided for in section eight, article one, chapter thirty-one-c of  
 67 this Code as follows:

68 **Total Assets**

69	<b>But Not</b>	<b>This</b>		<b>Of Excess</b>
70 <b>Over</b>	<b>Over</b>	<b>Amount</b>	<b>Plus</b>	<b>Over</b>
71 \$ 0	\$ 100,000	100	-	-
72 100,000	500,000	300	-	-
73 500,000	1,000,000	500	-	-
74 1,000,000	5,000,000	500	.000400	1,000,000
75 5,000,000	10,000,000	2,100	.000200	5,000,000
76 10,000,000	-	3,100	.000100	10,000,000

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

81 (c) The commissioner shall each December, ~~and each~~  
 82 March, June, and September prepare and send to each state  
 83 banking institution a statement of the amount of the assess-  
 84 ment due. The commissioner shall further, each June,  
 85 prepare and send to each regulated consumer lender and  
 86 each state credit union a statement of the amount of the

87 assessment due. The commissioner shall annually, during the  
88 month of January, prepare and send to each bank holding  
89 company a statement of the amount of the assessment due.  
90 State banking institution assessments may be prescribed  
91 every ~~six~~ three months, not later than June 15, ~~and~~ Septem-  
92 ber 15, December 15, and March 15 by written order of the  
93 commissioner, but shall not exceed the maximums as set  
94 forth in subsection (b) of this section. In setting the assess-  
95 ments the primary consideration shall be the amount  
96 appropriated by the Legislature for the Division of Banking  
97 for the corresponding annual period. Reasonable notice of  
98 the assessments shall be made to all interested parties. All  
99 orders of the commissioner for the purpose of setting assess-  
100 ments are not subject to the provisions of the West Virginia  
101 Administrative Procedures Act under chapter twenty-nine-a  
102 of this code.

103 (d) For making an examination within the state of any  
104 other financial institution for which assessments are not  
105 provided by this code, the Commissioner of Banking shall  
106 charge and collect from such other financial institution and  
107 pay into the special revenue account for the Division of  
108 Banking the actual and necessary costs and expenses

109 incurred in connection therewith, as fixed and determined by  
110 the commissioner. Banks that provide only trust or other  
111 nondepository services, nonbanking subsidiaries of bank  
112 holding companies that provide trust services, nonbanking  
113 subsidiaries of banks that provide trust services and any  
114 trust entity that is jointly owned by federally insured  
115 depository institutions may be assessed for necessary costs  
116 and expenses associated with an examination pursuant to  
117 this subsection.

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

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

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

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

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BANKING AND INSURANCE COMMITTEE AMENDMENT

On page three, section eight, line twenty-nine, by striking out the  
words “and December 31,” and inserting in lieu thereof a comma  
and the words “September 30, December 31 and March 31,”.