

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

House Bill 4245

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WAXMAN, PERRY AND B. WHITE)

[Originating in the Committee on the Judiciary.]

1 A BILL to amend and reenact §31A-4-20 of the Code of West Virginia, 1931, as amended, relating
 2 to requirements for the review of the financial condition of state chartered banks; requiring
 3 the cashier or executive officer of a state banking institution to provide shareholders with
 4 the institution's most recent fiscal year audited financial statement; authorizing alternative
 5 delivery to shareholders and consolidated or combined statements; requiring that the
 6 board of directors of a bank, or its controlling bank holding company, appoint an outside
 7 independent auditing firm; eliminating the requirement that a bank transmit a copy of an
 8 audit report of its financial condition to the division of financial institutions; eliminating the
 9 approval required for a shareholder committee to utilize or employ registered or certified
 10 public accountants; and eliminating the division examiner's ability to require the presence
 11 of the examining committee or executive committee during an examination.

Be it enacted by the Legislature of West Virginia:

1 That §31A-4-20 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.

**§31A-4-20. Stockholders' annual meeting; financial statement; appointment, duties and
 report of examining committee; employment of accountants; examiners may
 require presence of executive or examining committee outside auditing firm.**

1 (a) The stockholders of each state banking institution shall meet annually. ~~and At such the~~
 2 annual meeting it ~~shall be~~ is the duty of the cashier or other executive officer of ~~such the~~ banking
 3 institution to prepare and submit to the stockholders a ~~clear and concise statement~~ copy of the
 4 ~~financial condition of the corporation as of the close of business on the last day of the month next~~
 5 ~~preceding~~ institution's most recent fiscal year audited financial statements. This requirement is
 6 satisfied if the banking institution mails or otherwise delivers to its shareholders annual audited
 7 financial statements, which may be consolidated or combined statements of the banking
 8 institution, its holding company and any subsidiaries, that include a balance sheet as of the end

9 of the fiscal year, an income statement for that year and a statement of changes in shareholders'
10 equity for the year, within one hundred twenty days of the close of the fiscal year.

11 ~~(b) At such meeting, the stockholders present in person or by proxy shall elect an~~
12 ~~examining committee composed of not less than three nor more than five persons, each of whom~~
13 ~~shall be a stockholder either in such banking institution~~ The board of directors of the banking
14 institution or, if such banking institution is controlled by a bank holding company, ~~in that~~ the bank
15 holding company shall appoint an outside auditing firm on an annual basis to serve as the banking
16 institution's auditor for the year.

17 (c) At such time or times as it may be directed to do so by the written request of the board
18 of directors or the Commissioner of ~~Banking~~ Financial Institutions, such ~~committee~~ outside
19 independent auditing firm shall immediately proceed to examine the condition of the bank and,
20 upon completion of such examination, shall file its report in writing with the board of directors.
21 Such report shall set forth in detail all items included in the assets of the bank which the ~~committee~~
22 firm has reason to believe are not of the value at which they appear on the books and records of
23 the bank, and shall give the value of each of such items according to its judgment. The board of
24 directors shall cause such report to be retained as a part of the records of the bank. ~~and shall~~
25 ~~transmit a duly authenticated copy thereof to the commissioner of banking~~

26 ~~(d) With the consent and approval of the stockholders, such committee may employ~~
27 ~~registered or certified public accountants to make such examination or make the same in~~
28 ~~conjunction with any official examination made by any supervisory authority.~~

29 ~~(e)~~ (d) The workpapers of any audit, including any materials associated with an audit of
30 the bank's electronic data procedures, shall be made available to the commissioner or to the
31 examiners of the ~~department of banking~~ Division of Financial Institutions upon request, and will
32 be accorded confidentiality in conformity with section four, article two of this chapter.

33 ~~(f) Any official examiner of the department of banking may require the presence of the~~
34 ~~examining committee or the executive committee during his examination.~~

NOTE: The purpose of this bill is to replace the obsolete requirement of establishing an examining committee and clarify that a bank must employ an outside auditing firm. It also provides for shareholders to be given the bank's most recent year-end audited statement at their annual meeting.

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