

HB 4132

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



# ENROLLED

Com. Sub. for  
HOUSE BILL No. 4132

(By Delegates *S. Williams, H. White, Phillips,*  
*Rutledge + Harrison*)



Passed ..... *March 1,* ..... 1994

In Effect ..... *90 Days From* ..... Passage

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 4132**

(By DELEGATES S. WILLIAMS, H. WHITE, PHILLIPS,  
RUTLEDGE AND HARRISON)

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[Passed March 1, 1994; in effect ninety days from passage.]

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AN ACT to amend and reenact section twelve, article eight, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to permitting banking institutions to open temporary business offices at colleges and universities located in the same county as the banking institution for the limited purposes of opening bank accounts and accepting deposits; time limitations and restrictions; and requisite authority.

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

That section twelve, article eight, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 8. HEARINGS; ADMINISTRATIVE PROCEDURES; JUDICIAL REVIEW; UNLAWFUL ACTS; PENALTIES.**

**§31A-8-12. Procedure for authorization of branch banks; temporary offices at colleges and universities; limitations and restrictions; examinations and hearings; standards of review; penalties for violation of section.**

1 (a) Except as otherwise provided herein, no banking

2 institution shall engage in business at any place other  
3 than at its principal office in this state, at a branch bank  
4 in this state permitted by this section as a customer  
5 bank communication terminal permitted by section  
6 twelve-b of this article or at any loan organization office  
7 permitted by section twelve-c of this article.

8 (1) Acceptance of a deposit at the offices of any  
9 subsidiary, as defined in section two, article eight-a of  
10 this chapter, for credit to the customer's account at any  
11 other subsidiary of the same bank holding company is  
12 permissible and does not constitute branch banking.

13 (2) A banking institution located in a county where  
14 there is also a higher educational institution as defined  
15 in section two, article one, chapter eighteen-b of this  
16 code, may establish a temporary business office on the  
17 campus of any such educational institution located in  
18 such county for the limited purposes of opening accounts  
19 and accepting deposits for a period not in excess of four  
20 business days per semester, trimester or quarter:  
21 *Provided*, That prior to opening any temporary office,  
22 a banking institution must first obtain written permis-  
23 sion from the institution of higher education. The term  
24 "business days," for the purpose of this subsection,  
25 means days exclusive of Saturdays, Sundays and legal  
26 holidays as defined in section one, article two, chapter  
27 two of this code.

28 (3) Any banking institution which on January one, one  
29 thousand nine hundred eighty-four, was authorized to  
30 operate an off-premises walk-in or drive-in facility,  
31 pursuant to the law then in effect, may, as of the seventh  
32 day of June, one thousand nine hundred eighty-four,  
33 operate such facility as a branch bank and it shall not  
34 be necessary, for the continued operation of such branch  
35 bank, to obtain additional approvals, notwithstanding  
36 the provisions of subsection (d) of this section and  
37 subdivision (6), subsection (b), section two, article three  
38 of this chapter.

39 (b) Except for a bank holding company, it shall be  
40 unlawful for any individual, partnership, society,  
41 association, firm, institution, trust, syndicate, public or

42 private corporation, or any other legal entity, or  
43 combination of entities acting in concert, to directly or  
44 indirectly own, control or hold with power to vote,  
45 twenty-five percent or more of the voting shares of each  
46 of two or more banks, or to control in any manner the  
47 election of a majority of the directors of two or more  
48 banks.

49 (c) A banking institution may establish branch banks  
50 either by:

51 (1) The construction, lease or acquisition of branch  
52 bank facilities as follows:

53 (A) After the seventh of June, one thousand nine  
54 hundred eighty-four, within the county in which that  
55 banking institution's principal office is located or within  
56 the county in which that banking institution had prior  
57 to January first, one thousand nine hundred eighty-four,  
58 established a branch bank, pursuant to subdivision (2)  
59 of this subsection; and

60 (B) After the thirty-first of December, one thousand  
61 nine hundred eighty-six, within any county in this state;  
62 or

63 (2) The purchase of the business and assets and  
64 assumption of the liabilities of, or merger or consolida-  
65 tion with, another banking institution.

66 (d) Notwithstanding any other provision of this  
67 chapter to the contrary, subject to and in furtherance  
68 of the board's authority under the provisions of subdi-  
69 vision (6), subsection (b), section two, article three of this  
70 chapter, and subsection (g) of this section, the board may  
71 approve or disapprove the application of any state  
72 banking institution to establish a branch bank.

73 (e) The principal office of a banking institution as of  
74 the seventh day of June, one thousand nine hundred  
75 eighty-four, shall continue to be the principal office of  
76 such banking institution for purposes of establishing  
77 branch banks under this section, notwithstanding any  
78 subsequent change in the location of such banking  
79 institution's principal office.

80 (f) Any banking institution which is authorized to  
81 establish branch banks pursuant to this section may  
82 provide the same banking services and exercise the  
83 same powers at each such branch bank as may be  
84 provided and exercised at its principal banking house.

85 (g) The board shall, upon receipt of any application  
86 to establish a branch bank, provide notice of such  
87 application to all banking institutions. A banking  
88 institution may, within ten days after receipt of such  
89 notice, file a petition to intervene and shall, if it so files  
90 such petition, thereupon become a party to any hearing  
91 relating thereto before the board.

92 (h) The commissioner shall prescribe the form of the  
93 application for a branch bank and shall collect an  
94 examination and investigation fee of one thousand  
95 dollars for each filed application for a branch bank that  
96 is to be established by the construction, lease or  
97 acquisition of a branch bank facility, and two thousand  
98 five hundred dollars for a branch bank that is to be  
99 established by the purchase of the business and assets  
100 and assumption of the liabilities of, or merger or  
101 consolidation with another banking institution. Notwith-  
102 standing the above, if the merger or consolidation is  
103 between an existing banking institution and a bank  
104 newly incorporated solely for the purpose of facilitating  
105 the acquisition of the existing banking institution, the  
106 commissioner shall collect an examination and investi-  
107 gation fee of five hundred dollars. The board shall  
108 complete the examination and investigation within  
109 ninety days from the date on which such application and  
110 fee are received, unless the board request in writing  
111 additional information and disclosures concerning the  
112 proposed branch bank from the applicant banking  
113 institution, in which event such ninety-day period shall  
114 be extended for an additional period of thirty days plus  
115 the number of days between the date of such request and  
116 the date such additional information and disclosures are  
117 received.

118 (i) Upon completion of the examination and investiga-  
119 tion with respect to such application, the board shall, if  
120 a hearing be required pursuant to subsection (j) of this

121 section, forthwith give notice and hold a hearing  
122 pursuant to the following provisions:

123 (1) Notice of such hearing shall be given to the  
124 banking institution with respect to which the hearing is  
125 to be conducted in accordance with the provisions of  
126 section two, article seven, chapter twenty-nine-a of this  
127 code, and such hearing and the administrative proce-  
128 dures in connection therewith shall be governed by all  
129 of the provisions of article five, chapter twenty-nine-a of  
130 this code, and shall be held at a time and place set by  
131 the board but shall not be less than ten nor more than  
132 thirty days after such notice is given.

133 (2) At any such hearing a party may represent himself  
134 or be represented by an attorney at law admitted to  
135 practice before any circuit court of this state.

136 (3) After such hearing and consideration of all the  
137 testimony and evidence, the board shall make and enter  
138 an order approving or disapproving the application,  
139 which order shall be accompanied by findings of fact  
140 and conclusions of law as specified in section three,  
141 article five, chapter twenty-nine-a of this code, and a  
142 copy of such order and accompanying findings and  
143 conclusions shall be served upon all parties to such  
144 hearing, and their attorneys of record, if any.

145 (j) No state banking institution may establish a branch  
146 bank until the board, following an examination, inves-  
147 tigation, notice and hearing, enters an order approving  
148 an application for that branch bank: *Provided*, That no  
149 such hearing shall be required with respect to any  
150 application to establish a branch bank which is ap-  
151 proved by the board unless a banking institution has  
152 timely filed a petition to intervene pursuant to subsec-  
153 tion (g) of this section. The order shall be accompanied  
154 by findings of fact that:

155 (1) Public convenience and advantage will be pro-  
156 moted by the establishment of the proposed branch  
157 bank;

158 (2) Local conditions assure reasonable promise of  
159 successful operation of the proposed branch bank and of

160 those banks and branches thereof already established in  
161 the community;

162 (3) Suitable physical facilities will be provided for the  
163 branch bank;

164 (4) The applicant state-chartered banking institution  
165 satisfies such reasonable and appropriate requirements  
166 as to sound financial condition as the commissioner or  
167 board may from time to time establish by regulation;

168 (5) The establishment of the proposed branch bank  
169 would not result in a monopoly, nor be in furtherance  
170 of any combination or conspiracy to monopolize the  
171 business of banking in any section of this state; and

172 (6) The establishment of the proposed branch bank  
173 would not have the effect in any section of the state of  
174 substantially lessening competition, nor tend to create a  
175 monopoly or in any other manner be in restraint of  
176 trade, unless the anticompetitive effects of the establish-  
177 ment of that proposed branch bank are clearly out-  
178 weighed in the public interest by the probable effect of  
179 the establishment of the proposed branch bank in  
180 meeting the convenience and needs of the community to  
181 be served by that proposed branch bank.

182 (k) Any party who is adversely affected by the order  
183 of the board shall be entitled to judicial review thereof  
184 in the manner provided in section four, article five,  
185 chapter twenty-nine-a of this code. Any such party  
186 adversely affected by a final judgment of a circuit court  
187 following judicial review as provided in the foregoing  
188 sentence may seek review thereof by appeal to the  
189 supreme court of appeals in the manner provided in  
190 article six, chapter twenty-nine-a of this code.

191 (l) Pursuant to the resolution of its board of directors  
192 and with the prior written approval of the commis-  
193 sioner, a state banking institution may discontinue the  
194 operation of a branch bank upon at least thirty days'  
195 prior public notice given in such form and manner as  
196 the commissioner prescribes.


197 (m) Any violation of any provision of this section shall  
198 constitute a misdemeanor offense punishable by appli-

199 cable penalties as provided in section fifteen of this  
200 article.



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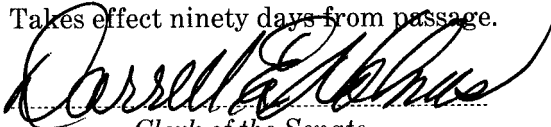
The Joint Committee on Enrolled Bills hereby certifies that  
the foregoing bill is correctly enrolled

  
Chairman Senate Committee

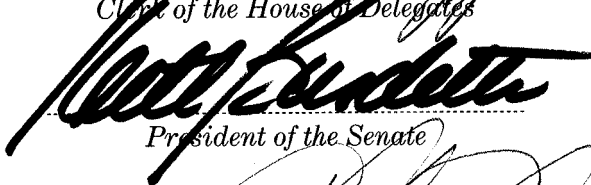
  
Ernest E. Moore  
Chairman House Committee

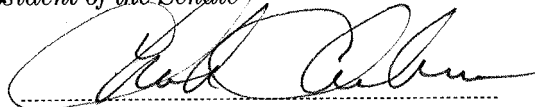
Originating in the House.

Takes effect ninety days from passage.

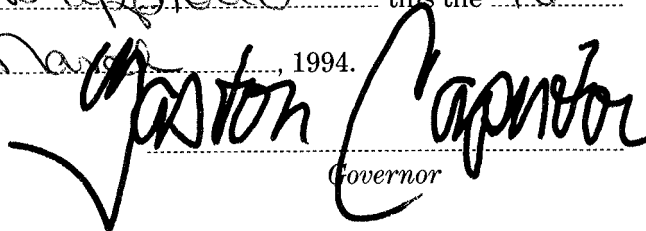
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 16<sup>th</sup>  
day of May, 1994.

  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/10/94

Time 9:31