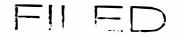
SB 183 S (Vets)



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OFFICE WEST WIRGINIA SECRETARY OF STATE

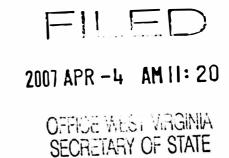
WEST VIRGINIA LEGISLATURE SEVENTY-EIGHTH LEGISLATURE REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 183

(By Senators Minard, Barnes and Kessler)

[Passed March 5, 2007; in effect ninety days from passage.]



ENROLLED

Senate Bill No. 183

(By Senators Minard, Barnes and Kessler)

[Passed March 5, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §31A-8A-2 and §31A-8A-3 of the Code of West Virginia, 1931, as amended, all relating to providing that the Board of Banking and Financial Institutions has the authority to approve acquisitions of out-of-state banks and bank holding companies by West Virginia state banks or bank holding companies.

Be it enacted by the Legislature of West Virginia:

That §31A-8A-2 and §31A-8A-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 8A. ACQUISITION OF BANKS BY BANK HOLDING COMPANIES.

§31A-8A-2. Scope and statement of legislative intent.

- 1 This article sets forth the conditions under which a
- 2 company may acquire a West Virginia state bank, may
- 3 form or acquire a West Virginia bank holding company
- 4 or may acquire an out-of-state bank or out-of-state
- 5 bank holding company. This article is intended not to
- 6 discriminate against out-of-state bank holding
- 7 companies or against foreign bank holding companies in
- 8 any manner that would violate Section 3(d) of the Bank
- 9 Holding Company Act, 12 U. S. C. §1842(d), as
- amended, effective the twenty-ninth day of September,
- one thousand nine hundred ninety-five, by Section 101
- 12 of the Riegle-Neal Interstate Banking and Branching
- 13 Efficiency Act of 1994, Public Law No. 103-328.

§31A-8A-3. Permitted acquisitions.

- 1 (a) Except as otherwise expressly permitted by federal
- 2 law, a company may not form a West Virginia bank
- 3 holding company or acquire a West Virginia state bank
- 4 or a bank holding company controlling a West Virginia
- 5 state bank without the prior application and approval
- 6 upon order of the board. A West Virginia state bank or
- 7 West Virginia state bank holding company which
- 8 controls, directly or indirectly, a West Virginia state
- 9 bank may not acquire an out-of-state bank or out-of-
- 10 state bank holding company without first filing with the
- commissioner a copy of the application it files with the
- 12 appropriate federal regulator unless the acquisition
- 13 involves a merger and establishment of branches
- 14 pursuant to article eight-d of this chapter.

- 15 (b) The prohibition in subsection (a) of this section 16 shall not apply where the acquisition is made:
- 17 (1) Solely for the purpose of facilitating an acquisition 18 otherwise permitted under this article;
- (2) In a transaction arranged by the commissioner with the consent of the West Virginia Board of Banking and Financial Institutions with another state or federal bank supervisory agency to prevent the insolvency or closing of the acquired bank; or
- 24 (3) In a transaction in which a national bank or out-25 of-state state bank forms its own bank holding 26 company, if the ownership rights of the former bank 27 shareholders are substantially similar to those of the 28 shareholders of the new bank holding company.
- (c) In any transaction involving the acquisition or 29 30 change in control of a West Virginia bank, West Virginia bank holding company, bank branch located in West 31 32 Virginia by a bank holding company, the formation of a 33 West Virginia bank holding company or the acquisition 34 of a thrift institution in West Virginia by a bank holding 35 company for which an application to the board for 36 approval is not initially required under subsection (a) of 37 this section, the party seeking the action shall give 38 written notice to the commissioner at the time the 39 application or notice is filed with the responsible federal 40 bank supervisory agency and at least forty-five days 41 before the effective date of the acquisition, unless a 42 shorter period of notice is required under applicable federal law. In addition, the parties shall give the 43 commissioner copies of all final federal and state 44 45 applications filed in connection with the transaction

- 46 together with a two hundred fifty-dollar filing fee.
- 47 Unless preempted by federal law, the commissioner has
- 48 thirty days from receipt of the written notice to object
- 49 to any proposed transaction, require an application and
- request a hearing before the board on the basis that the
- 51 transaction is contrary to applicable West Virginia law.
- 52 The failure to object within thirty days shall be
- 53 construed as consent by the commissioner or, in his or
- 54 her discretion, the commissioner may, at any time,
- 55 consent in writing.
- 56 (d) To the extent that any acquisition under this
- 57 section involves the merger of a bank with and into a
- 58 West Virginia state bank, the merger transaction
- 59 remains subject to the jurisdiction and approval of the
- 60 board pursuant to section seven, article seven of this
- 61 chapter or article eight-d of this chapter, as applicable.
- 62 (e) An acquisition shall not be permitted under this
- 63 article or otherwise if upon consummation of the
- 64 transaction, the resulting bank or bank holding
- 65 company, including any depository institutions
- affiliated with the applicant, would assume sufficient
- additional deposits to cause it to control deposits in this
- 68 state in excess of that allowed by section twelve-a,
- 69 article two of this chapter: Provided, That the
- 70 commissioner may by rule adopt a procedure whereby
- 71 the acquisition deposit limitation as set forth in this
- 72 code may be waived for good cause shown. The
- 73 commissioner shall calculate the acquisition deposit
- 74 limitation based upon the most recently available
- 75 reports containing the deposit information filed with

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76 state or federal authorities.

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

Chairman Senate Committee
Chairman House Committee
Originated in the Senate.
In effect ninety days from passage.
Clerk of the Senate
Clerk of the House of Delegates
President of the Senate
Speaker House of Delegates
The within was disapplaced this
the
Governor

PRESENTED TO THE GOVERNOR

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