

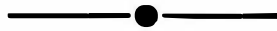
HB 3155

FILED

2009 MAY -6 PM 1:29

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2009



**ENROLLED**

**House Bill No. 3155**

(By Delegates Campbell, White and Kominar)



Passed April 11, 2009

In Effect Ninety Days from Passage

**ENROLLED**

**FILED**

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**H. B. 3155**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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(BY DELEGATES CAMPBELL, WHITE AND KOMINAR)

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[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §12-1A-4 and §12-1A-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §12-1A-7 and §12-1A-8, all relating to the renewal of the West Virginia Small Business Linked Deposit Program; limiting liability of certain state agencies; penalties for violation; and updating certain language within the code.

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

That §12-1A-4 and §12-1A-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto two new sections, designated §12-1A-7 and §12-1A-8, all to read as follows:

**ARTICLE 1A. WEST VIRGINIA SMALL BUSINESS  
LINKED DEPOSIT PROGRAM.**

**§12-1A-4. Applications for loan priority; loan package;  
counseling.**

03:1 111 0-7 (a) An eligible lending institution that desires to  
2 participate in the linked deposit program shall accept and  
3 review loan applications from eligible small businesses that  
4 have been prepared with the advice of the Small Business  
5 Development Center. The lending institution shall apply all  
6 usual lending standards to determine the credit worthiness of  
7 each eligible small business and whether the loan application  
8 meets the criteria established in this article.

9 (b) An eligible small business shall certify on its loan  
10 application that: (1) The small business is in good standing  
11 with the State Tax Division, an authorized workers'  
12 compensation insurance carrier and WORKFORCE West  
13 Virginia as of the date of the application; (2) the linked deposit  
14 loan will be used to create new jobs or preserve existing jobs  
15 and employment opportunities; and (3) the linked deposit loan  
16 shall not be used to refinance an existing debt.

17 (c) In considering which eligible small businesses  
18 should receive linked deposit loans, the eligible lending  
19 institution shall give priority to the economic needs of the  
20 area in which the business is located, the number of jobs to  
21 be created and preserved by the receipt of the loan, the  
22 reasonable ability of the small business to repay the loan  
23 and other factors considered appropriate by the eligible  
24 financial institution.

25 (d) A small business receiving a linked deposit loan shall  
26 receive counseling provided by the small business  
27 development center when applying for the loan. The services  
28 available from the Small Business Development Center  
29 include eligibility certification, business planning, quarterly  
30 financial statement review and loan application assistance.  
31 The State Tax Division, WORKFORCE West Virginia and  
32 the authorized workers' compensation insurance carrier shall  
33 provide the Small Business Development Center with

34 information as to the standing of each small business loan  
35 applicant. The Small Business Development Center shall  
36 include these certifications with the loan application.

37 (e) After all approvals of the Small Business  
38 Development Center and the financial institution have been  
39 given for a linked deposit loan, the Small Business  
40 Development Center and the financial institution shall  
41 forward to the Treasurer a linked deposit loan request in the  
42 form and manner prescribed by the Treasurer. The Treasurer  
43 shall notify the Small Business Development Center when  
44 the linked deposit is made.

**§12-1A-6. Certification and monitoring of compliance;  
accountability and reporting.**

1 (a) Upon the placement of a linked deposit with an  
2 eligible lending institution, the institution shall lend the funds  
3 to the approved eligible small business listed in the linked  
4 deposit loan package. A certification of compliance with this  
5 section shall be sent to the Small Business Development  
6 Center by the eligible lending institution.

7 (b) As a condition of remaining in good standing with the  
8 lending institution and the state and as a condition of having  
9 the loan for up to seven years, the loan recipient shall receive  
10 counseling provided by the Small Business Development  
11 Center. Eligible small businesses shall also grant the lending  
12 institution the right to provide information on the status of the  
13 loan to the Small Business Development Center so as to  
14 assist the small business.

15 (c) The Small Business Development Center shall take  
16 any and all steps necessary to implement, advertise and  
17 monitor compliance with the linked deposit program.

18 (d) By January 31 of each year, the Small Business  
19 Development Center shall report on the linked deposit  
20 program for the preceding calendar year to the West Virginia  
21 Development Office, which shall then report to the Joint  
22 Committee on Government and Finance. The reports shall  
23 set forth the name of the small business, terms, delinquency  
24 and default rates, job growth, gross income evaluation and  
25 amounts of the loans upon which the linked deposits were  
26 based.

#### **§12-1A-7. Liability of state.**

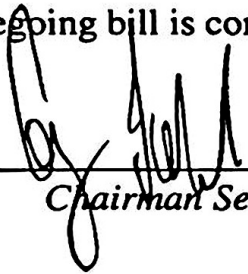
1 The state, the Treasurer, the Department of Commerce,  
2 the West Virginia Development Office and the Small  
3 Business Development Center and their employees are not  
4 liable to any eligible lending institution in any manner for  
5 payment of the principal or interest on the loan to an eligible  
6 small business. Any delay in payment or default on the part  
7 of an eligible small business does not in any manner affect  
8 the deposit agreement between the eligible lending institution  
9 and the Treasurer.

#### **§12-1A-8. Penalties for violation of article.**

1 (a) Any person who knowingly makes a false statement  
2 concerning an application or violates another provision of  
3 this article is guilty of a misdemeanor and, upon conviction  
4 thereof, shall be fined not less than \$100 nor more than \$500  
5 or confined in jail not less than one month nor more than one  
6 year.

7 (b) In addition to the criminal penalties provided in this  
8 section, no person who is convicted of a violation of  
9 subsection (a) of this section is eligible to participate in the  
10 linked deposit program.

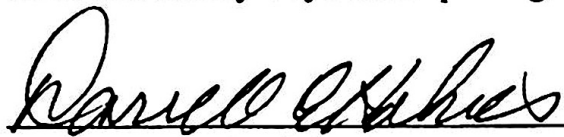
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
\_\_\_\_\_  
Chairman Senate Committee

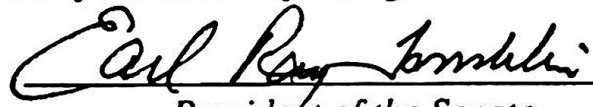
  
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Chairman House Committee

Originating in the House.

In 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 was passed this the 6<sup>th</sup>  
day of May, 2009.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAY 4 2009

Time 10:05 AM