

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4280

**FISCAL
NOTE**

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[Introduced January 24, 2018; Referred
to the Committee on Banking and Insurance then
Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §31A-8G-1, §31A-8G-2, §31A-8G-3, §31A-8G-4, §31A-8G-5, §31A-8G-6,
3 §31A-8G-7, §31A-8G-8, §31A-8G-9, §31A-8G-10, §31A-8G-11, §31A-8G-12, §31A-8G-
4 13, §31A-8G-14, §31A-8G-15, §31A-8G-16, §31A-8G-17, §31A-8G-18, §31A-8G-19,
5 §31A-8G-20, §31A-8G-21, §31A-8G-22, §31A-8G-23, §31A-8G-24, §31A-8G-25, §31A-
6 8G-26, §31A-8G-27, §31A-8G-28, and §31A-8G-29, all relating to creating the “State Bank
7 of West Virginia” that is owned, controlled and operated by the state for the purpose of
8 encouraging and promoting agriculture, commerce and industry.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8G. THE STATE BANK OF WEST VIRGINIA.

§31A-8G-1. Purpose and establishment of State Bank of West Virginia.

1 For the purpose of encouraging and promoting agriculture, commerce and industry, the
2 State of West Virginia shall engage in the business of banking, and for that purpose shall maintain
3 a system of banking owned, controlled and operated by it, under the name of the State Bank of
4 West Virginia.

§31A-8G-2. West Virginia Board of Banking and Financial Institutions.

1 The West Virginia Board of Banking and Financial Institutions may authorize the operation,
2 management and control of the State Bank of West Virginia, its location or locations and its places
3 of business, of which the principal place must be within the state, and make and enforce orders,
4 rules, regulations and bylaws for the transaction of its business. The business and financial
5 transactions of the bank, in addition to other matters specified in this article, may include anything
6 that any bank or bank holding company lawfully may do, except as it is restricted by the provisions
7 of this article. This provision may not be held in any way to limit or qualify either the powers of the
8 Board of Banking and Financial Institutions granted by or the functions of the bank as defined in
9 this article. The powers of the State Bank of West Virginia and the functions of the bank must be
10 implemented through actions taken and policies adopted by the Board of Banking and Financial

11 Institutions.

§31A-8G-3. Declaration and finding of public purpose; advisory board of directors.

1 To enlist the help of private enterprise and to encourage more active use of the purposes
2 for which the State Bank of West Virginia was created, the Governor shall appoint an advisory
3 board of directors to the State Bank of West Virginia consisting of seven persons, at least two of
4 whom must be officers of banks, the majority of the stock of which is owned by West Virginia
5 residents, and at least one of whom must be an officer of a state-chartered or federally-chartered
6 financial institution. The Governor shall appoint a chairman, vice chairman and secretary from the
7 advisory board of directors. The term of a director is four years. The Board of Banking and
8 Financial Institutions shall define the duties of the advisory board of directors.

§31A-8G-4. Authority of the advisory board.

1 The advisory board of directors to the State Bank of West Virginia shall:

2 (1) Meet regularly with the management of the State Bank of West Virginia to review the
3 bank's operations to determine whether recommendations should be made by the board to the
4 Board of Banking and Financial Institutions relating to improved management performance, better
5 customer service, and overall improvement in internal methods, procedures and operating
6 policies of the bank.

7 (2) Make recommendations to the Board of Banking and Financial Institutions relating to
8 the establishment of additional objectives for the operation of the State Bank of West Virginia.

9 (3) Make recommendations to the Board of Banking and Financial Institutions concerning
10 the appointment of officers of the State Bank of West Virginia.

11 (4) Meet regularly with the Board of Banking and Financial Institutions to present any
12 recommendations concerning the State Bank of West Virginia.

13 (5) In addition to the foregoing and pursuant to authorization from the Board of Banking
14 and Financial Institutions, act on behalf of the bank with respect to the powers and functions of
15 the bank.

§31A-8G-5. Board to employ president and employees; compensation, operation, and maintenance expenditures limited to appropriations, revenue or capital.

1 The Board of Banking and Financial Institutions shall appoint a president, and may appoint
2 and employ such subordinate officers, employees and agents as it may judge expedient and in
3 the interests of the state, and shall define the duties, designate the titles and fix the compensation
4 of all such persons. The board may designate the president or other officers or employees as its
5 agent in respect to the functions of the bank, subject to its supervision, limitation and control.

6 The total compensation of the appointees and employees, together with other
7 expenditures for the operation and maintenance of the bank, shall remain within the appropriation,
8 revenues or capital lawfully available for these purposes.

§31A-8G-6. Removal and discharge of appointees.

1 The Board of Banking and Financial Institutions may remove and discharge any person
2 appointed in the exercise of the powers granted by this article, whether by the board or by the
3 president of the bank. All appointments and removals contemplated by this article must be made
4 as the board considers fit to promote the efficiency of the public service.

§31A-8G-7. State funds must be deposited in The State Bank of West Virginia; income of the bank.

1 State funds and funds of all state penal, educational, and industrial institutions may be
2 deposited in the State Bank of West Virginia by the persons having control of these funds or must
3 be deposited in accordance with constitutional and statutory provisions. All income earned by the
4 bank for its own account on state moneys that are deposited in or invested with the bank to the
5 credit of the state must be credited to and become a part of the revenues and income of the bank.

§31A-8G-8. Nonliability of officers and sureties after deposit.

1 Whenever any of the public funds herein designated are deposited in the State Bank of
2 West Virginia, as herein provided, the official having control thereof and the sureties on the bond
3 of every such official is exempt from all liability by reason of loss of any such funds while so

4 deposited.

§31A-8G-9. Guaranty of deposits; exemption from all taxation.

1 All deposits in the State Bank of West Virginia are guaranteed by the state. These deposits
2 are exempt from state, county and municipal taxes of any and all kinds.

§31A-8G-10. Bank a clearinghouse.

1 For banks that make the State Bank of West Virginia a reserve depository, it may perform
2 the functions and render the services of a clearinghouse, including all facilities for providing
3 domestic and foreign exchange, and may rediscount paper, on such terms as the Board of
4 Banking and Financial Institutions provides.

§31A-8G-11. Powers.

1 (a) The State Bank of West Virginia may:

2 (1) Make, purchase, guarantee or hold loans:

3 (A) To state-chartered or federally-chartered lending agencies or institutions or any other
4 financial institutions.

5 (B) To holders of Bank of West Virginia certificates of deposit and savings accounts up to
6 90 percent of the value of the certificates and savings accounts offered as security.

7 (C) To actual farmers who are residents of this state, if the loans are secured by recorded
8 mortgages giving the State Bank of West Virginia a first lien on real estate in West Virginia in
9 amounts not to exceed 80 percent of the value of the security.

10 (D) That are insured or guaranteed, in whole or in part, by the United States, its agencies
11 or instrumentalities.

12 (E) That are eligible to be guaranteed under any provision of this code. Loans made
13 pursuant to this subdivision may provide for interest that remains unpaid at the end of any period
14 specified in the loan to be added to the principal amount of the debt and thereafter accumulate
15 interest.

16 (F) To individuals or bank holding companies for the purpose of purchasing or refinancing

17 the purchase of bank stock of a bank located in the state.

18 (G) To nonprofit organizations that are exempt from federal taxation under section
19 501(c)(3) of the Internal Revenue Code, 26 U.S.C. §501(c)(3), the proceeds of the loans to be
20 used for construction, reconstruction, repair, renovation, maintenance and associated costs on
21 property under the control of the parks and recreation department.

22 (H) Under Public Law No. 99-198, 99 Stat.1534; 7 U.S.C. §1932 et seq., as amended
23 through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to
24 rural businesses.

25 (I) Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts
26 F and R; and part 1955, subparts A, B and C, as amended through December 31, 1996, to finance
27 businesses and community development projects in rural areas.

28 (J) Obtained as security pledged for or originated in the restructuring of any other loan
29 properly originated or participated in by the bank.

30 (K) To instrumentalities of this state.

31 (L) As otherwise provided by this article or other provisions of this code.

32 (b) If the bank is participating in the loan and the bank determines it is in the best interests
33 of the bank to do so, it may purchase the remaining portion of the loan from a participating lender
34 that is closed by regulatory action or from the receiver of the participating lender's assets:

35 (1) To an investment company created for completing a trust preferred securities
36 transaction for the benefit of a financial institution located in this state.

37 (2) Make agricultural real estate loans in order to participate in the agricultural mortgage
38 secondary market program established pursuant to the Agricultural Credit Act, Pub. L. 100-233;
39 101 Stat. 1686; 12 U.S.C. §2279aa through §2279aa-14, as amended.

40 (3) Purchase participation interests in loans made or held by banks, bank holding
41 companies, state-chartered or federally-chartered lending agencies or institutions, any other
42 financial institutions, or any other entity that provides financial services and that meets

43 underwriting standards that are generally accepted by state or federal financial regulatory
44 agencies.

45 (4) Invest its funds:

46 (A) In conformity with policies of the Board of Banking and Financial Institutions.

47 (B) In a public venture capital corporation organized and doing business in this state
48 through the purchase of shares of stock.

49 (C) In West Virginia alternative and venture capital investments and early-stage capital
50 funds, including the West Virginia Development Fund, incorporated, not to exceed \$15 million, for
51 the purpose of providing funds for investment in West Virginia alternative and venture capital
52 investments, early-stage capital funds and entrepreneurship awards. The bank may invest a
53 maximum of \$200,000 per biennium in West Virginia-based venture capital entities that make
54 investments in companies located outside West Virginia. The bank may allow for third-party
55 management of the funds invested under this subdivision if the management is provided by the
56 West Virginia Development Fund, incorporated, or a third party that is located in the state and
57 that has demonstrated fund management experience.

58 (D) Buy and sell federal funds.

59 (E) Lease, assign, sell, exchange, transfer, convey, grant, pledge or mortgage all real and
60 personal property, title to which has been acquired in any manner.

61 (F) Acquire real or personal property or property rights by purchase, lease, or, subject to
62 chapter 54 of this code, the exercise of the right of eminent domain and may construct, remodel
63 and repair buildings.

64 (G) Receive deposits from any source and deposit its funds in any bank or other financial
65 institution.

66 (H) Perform all acts and do all things necessary, convenient, advisable or desirable to
67 carry out the powers expressly granted or necessarily implied in this article through or by means
68 of its president, officers, agents or employees or by contracts with any person, firm or corporation.

69 (l) Purchase mortgage loans on residential real property originated by financial institutions.

§31A-8G-12. Loans to general fund authorized; continuing appropriation.

1 The State Treasurer and the Secretary of Administration may, when the balance in the
2 State General Fund is insufficient to meet legislative appropriations, execute and issue on behalf
3 of the state evidences of indebtedness on the State General Fund which at no time exceed the
4 total principal amount of \$10 million with principal maturity of not more than 12 months. As a
5 condition precedent to the issuance and sale of the evidences of indebtedness, the State
6 Treasurer must request and obtain a statement from the Secretary of Administration and State
7 Tax Commissioner certifying that anticipated general fund revenues for the balance of the fiscal
8 year in which the evidences of indebtedness are to be issued will exceed the principal amount
9 and interest on the evidences of indebtedness to be issued. The State Board of Banking and
10 Financial Institutions may in turn direct the State Bank of West Virginia to make loans to the State
11 General Fund by the purchase of the evidences of indebtedness at such rates of interest as the
12 Board of Banking and Financial Institutions may prescribe. After evidences of indebtedness have
13 been issued and sold pursuant to this section, the State Treasurer shall establish a fund for the
14 repayment of the principal upon maturity and the interest when due. The State Treasurer shall
15 place all available general fund revenues into this fund until the fund contains a sufficient balance
16 for the repayment of the principal at maturity and interest when due, which moneys are hereby
17 appropriated for this purpose.

§31A-8G-13. Bank loans to beginning farmers; revolving loan fund; requirements.

1 (a) A revolving loan fund must be maintained in the State Bank of West Virginia for the
2 purpose of making or participating in loans to West Virginia beginning farmers for the purchase
3 of agricultural real estate, equipment and livestock. All moneys transferred into the fund, interest
4 upon moneys in the fund, and payments to the fund of principal and interest on loans made from
5 the fund are appropriated for the purpose of providing loans and to supplement the interest rate
6 on loans to beginning farmers made by the State Bank of West Virginia under §31A-8G-11 of this

7 code and in accordance with this section.

8 (b) The revolving loan fund and loans made from the fund must be administered and
9 supervised by the State Bank of West Virginia. The bank may deduct a service fee for
10 administering the fund from interest payments received on loans. An application for a loan from
11 the fund must be made to the bank and, upon approval, a loan must be made from the fund in
12 accordance with this section.

13 (c) A loan made from the fund may not exceed 80 percent of the appraised value of the
14 agricultural collateral, with the actual percentage to be determined by the bank. The bank may do
15 all things and acts and may establish additional terms and conditions necessary to make a loan
16 under this section. A loan made from the fund must have a first security interest.

17 (d) A loan made from the fund must have the interest rate fixed at one percent below the
18 bank's then current base rate for the first five years with a maximum rate of six percent per year
19 and variable at one percent below the bank's then current base rate for the second five years.
20 During the second five years, the variable rate must be adjusted annually on the anniversary date.
21 The rate during the remaining term of the loan floats at the bank's base rate as in effect from time
22 to time.

23 (e) The maximum term of a real estate loan is 30 years. The maximum term of a farm
24 equipment or livestock loan is seven years.

25 (f) The Board of Banking and Financial Institutions shall contract with a certified public
26 accounting firm to audit the fund as necessary. The cost of the audit, and any other actual costs
27 incurred by the bank on behalf of the fund, must be paid for by the fund.

28 (g) The bank shall adopt policies to implement this section.

29 (h) Notwithstanding any other provision of law, the bank may transfer any unobligated
30 funds between funds that have been appropriated by the Legislature for interest buy down in the
31 beginning farmers loan fund and the agriculture partnership in assisting community expansion
32 fund.

33 (i) Notwithstanding any other provision of law, the bank may transfer any unobligated
34 funds to the value-added agriculture equity loan program for the purpose of interest buy down on
35 a loan made for investment in a feedlot or dairy operation. Fund transfers under this subsection
36 may not exceed \$1 million during a biennium.

§31A-8G-14. Limitations on loans; disclosure of interests in certain loans.

1 Notwithstanding any other provision of law, the State Bank of West Virginia may not make
2 any loan or otherwise give its credit to a member of the Board of Banking and Financial Institutions
3 during the member's term on the Board of Banking and Financial Institutions. Before taking office,
4 a member of the Board of Banking and Financial Institutions shall file a statement with the State
5 Bank of West Virginia indicating any personal interest that the member has in any loan or loan
6 application in existence or pending at any time during the member's term on the Board of Banking
7 and Financial Institutions.

§31A-8G-15. Name in which business conducted and titles taken; execution of instruments.

1 (a) All business of the bank must be conducted under the name of "The State Bank of
2 West Virginia". Title to property pertaining to the operation of the bank must be obtained and
3 conveyed in the name of "The State of West Virginia, doing business as The State Bank of West
4 Virginia".

5 (b) Instruments must be executed in the name of the State of West Virginia. Within the
6 scope of authority granted by the Board of Banking and Financial Institutions, the president may
7 execute instruments on behalf of the bank, including any instrument granting, conveying or
8 otherwise affecting any interest in or lien upon real or personal property. Other officers or
9 employees of, and legal counsel to, the bank may execute instruments on behalf of the bank when
10 authorized by the Board of Banking and Financial Institutions.

11 (c) Any instrument executed prior to July 1, 2018, by the president, an attorney for the bank
12 or an officer or employee of the bank, and otherwise proper, is valid and effective.

§31A-8G-16. Civil actions on bank transactions; name of parties; service; venue.

1 (a) Civil actions may be brought against the State of West Virginia on account of claims
2 for relief claimed to have arisen out of transactions connected with the operation of the State Bank
3 of West Virginia upon condition that the provisions of this section are complied with. In such
4 actions, the state must be designated as “The State of West Virginia, doing business as The State
5 Bank of West Virginia”. The actions may be brought in the same manner and are subject to the
6 same provisions of law as other civil actions. The action must be brought in Kanawha County.

7 (b) If the bank seeks to participate in a loan that involves multiple banks and if the loan
8 documents require the bank to agree that civil actions will be commenced in a state outside of
9 West Virginia, the bank may agree to venue outside of West Virginia if approved by the Attorney
10 General.

§31A-8G-17. Surety on appeal, attachment, claim and delivery, and other cases in which undertaking is required, or not required.

1 Provisions of law requiring that a surety or sureties be given on undertakings in actions on
2 appeal, attachment, claim and delivery and other cases in which an undertaking is required, are
3 not applicable to the State of West Virginia, doing business as the State Bank of West Virginia,
4 as the party seeking such relief. It is required to give its own undertaking without surety and to
5 reimburse the adverse party when required by law.

§31A-8G-18. Examinations and audit reports.

1 The State Auditor shall contract with an independent certified public accounting firm for an
2 annual audit of the State Bank of West Virginia in accordance with generally accepted government
3 auditing standards. The State Auditor shall audit annually or contract for an annual audit of the
4 separate programs and funds administered by the State Bank of West Virginia. On request of the
5 State Auditor, the Board of Banking and Financial Institutions shall assist the State Auditor in the
6 auditing firm selection process, but the selection of the auditing firm is the State Auditor's
7 responsibility. The Auditor selected shall prepare an audit report that includes financial statements

8 presented in accordance with the audit and accounting guide for banks and savings institutions
9 issued by the American Institute of Certified Public Accountants. The Auditor also shall prepare
10 audited financial statements for inclusion in the comprehensive annual financial report for the
11 state. The State Auditor may conduct performance audits of the State Bank of West Virginia,
12 including the separate programs and funds administered by the bank. The Auditor shall report the
13 results of the audit to the Board of Banking and Financial Institutions and to the Legislature. The
14 State Bank of West Virginia or its separate programs and funds shall pay the costs of the audit.
15 The Board of Banking and Financial Institutions, through the commissioner, shall examine the
16 State Bank of West Virginia at least once each 24 months and conduct any investigation of the
17 bank which may be necessary. The commissioner shall report the examination results, and the
18 results of any necessary investigation, to the Board of Banking and Financial Institutions as soon
19 as practicable and to the legislative assembly. The Board of Banking and Financial Institutions
20 shall charge a fee for any examination or investigation at an hourly rate to be set by the
21 commissioner, sufficient to cover all reasonable expenses of the department associated with the
22 examinations and investigations provided by this section.

§31A-8G-19. Electronic fund transfer systems.

1 The State Bank of West Virginia may establish, under such rules as adopted by the Board
2 of Banking and Financial Institutions, a system to provide fund transfer services to its customers
3 and to the customers of state-chartered and federally-chartered banks located within the State of
4 West Virginia, and to other financial institutions otherwise authorized to utilize the services of
5 electronic fund transfer systems, to acquire such equipment as is necessary to establish
6 electronic fund transfer systems, and to make such reasonable charges for services rendered to
7 other banks hereunder as may be established by the Board of Banking and Financial Institutions.

§31A-8G-20. Confidentiality of Bank records.

1 The following records of the State Bank of West Virginia are confidential:

2 (1) Commercial or financial information of acf customer, whether obtained directly or

3 indirectly, except for routine credit inquiries or unless required by due legal process. As used in
4 this subsection, "customer" means any person who has transacted or is transacting business with,
5 or has used or is using the services of, the State Bank of West Virginia or for whom the State
6 Bank of West Virginia has acted as a fiduciary with respect to trust property.

7 (2) Internal or interagency memorandums or letters which would not be available by law
8 to a party other than in litigation with the bank.

9 (3) Information contained in or related to examination, operating, or condition reports
10 prepared by, on behalf of or for the use of a state or federal agency responsible for the regulation
11 or supervision of any bank activity.

12 (4) Information obtained from the state department of financial institutions which would not
13 be available from that agency under §31A-2A-1 et seq. of this code.

14 (5) The report by a bank officer or member of the bank's advisory board of directors
15 concerning personal financial statements.

§31A-8G-21. Custodian of securities.

1 Notwithstanding any other provision of law to the contrary, the State Bank of West Virginia
2 shall replace the State Treasurer as the custodian of all securities that are required to be
3 deposited with the state except that the State Treasurer is the custodian of all securities resulting
4 from the investment of funds by the State Treasurer, or except as otherwise required by this
5 section and chapter 12 of this code.

§31A-8G-22. Sale and leasing of acquired agricultural real estate.

1 The sale and leasing of agricultural real estate with an appraised value of \$10,000 or more
2 acquired by the State Bank of West Virginia through foreclosure or deed in lieu of foreclosure
3 must be done in accordance with §38-1-1 et seq. of this code and policies adopted by the Board
4 of Banking and Financial Institutions. The sale and leasing of agricultural real estate with an
5 appraised value of less than \$10,000, acquired by the State Bank of West Virginia through
6 foreclosure or deed in lieu of foreclosure, may be done in a manner as the bank determines is

7 appropriate given the circumstances. In the case of a lease by the party holding the right of
8 redemption, that party has the right to purchase at any time.

§31A-8G-23. West Virginia higher education savings plan; administration; rules continuing appropriation.

1 The State Bank of West Virginia shall propose rules for legislative approval in accordance
2 with the provisions of §29A-3-1 et seq. of this code to administer, manage, promote and market
3 a West Virginia higher education savings plan. The bank shall ensure that the West Virginia
4 Higher Education Savings Plan is maintained in compliance with internal revenue service
5 standards for qualified state tuition programs. The bank, as trustee of the West Virginia Higher
6 Education Savings Plan, may impose an annual administrative fee to recover expenses incurred
7 in connection with operation of the plan or for other programs deemed to promote attendance at
8 an institution of higher education. Administrative fees received by the bank are appropriated on a
9 continuing basis to be used as provided in this section. Contributions made during the taxable
10 year to a higher education savings plan administered by the bank, pursuant to the provisions of
11 the plan, are eligible for an income tax deduction as provided in §11-21-1 et seq. of this code.
12 Information related to contributions is confidential except as is needed by the Tax Commissioner
13 for determining compliance with the income tax deduction provided in §11-21-1 et seq. of this
14 code.

§31A-8G-24. Health information technology loan fund; appropriation.

1 (a) The Health Information Technology Loan Fund is established in the bank for the
2 purpose of providing loans to health care providers to purchase and upgrade electronic health
3 record technology, train personnel in its use, improve security of information exchange, and for
4 other purposes as established by the "West Virginia Health Care Cost Review Authority" created
5 by §16-29B-1 et seq. of this code. This fund is a revolving loan fund. All moneys transferred into
6 the fund, interest upon moneys in the fund, and collections of interest and principal on loans made
7 from the fund are appropriated for disbursement according to this section.

8 (b) The bank shall make loans from this fund to health care providers as approved by the
9 Health Care Cost Review Authority board, in accordance with the criteria established by the
10 Health Care Cost Review Authority board. A loan made under this fund must be repayable over
11 a period that may not exceed 10 years.

12 (c) The bank shall administer the Health Information Technology Loan Fund. Funds in the
13 loan fund may be used for loans as provided under this section and the costs of administration of
14 the fund. Annually, the bank may deduct a service fee for administering the revolving loan fund
15 maintained under this section.

16 (d) An application for a loan under this section must be made to the Health Care Cost
17 Review Authority board. The Health Care Cost Review Authority board may approve the
18 application of a qualified applicant that meets the criteria established by the Health Information
19 Technology Office Director. The Health Care Cost Review Authority board shall forward approved
20 applications to the bank. Upon approval of the application by the bank, the bank shall make the
21 loan from the revolving loan fund as provided under this section.

22 (e) The bank may do all acts necessary to negotiate loans and preserve security as
23 deemed necessary, to exercise any right of redemption, and to bring suit in order to collect interest
24 and principal due the revolving loan fund under mortgages, contracts and notes executed to
25 obtain loans under this section. If the applicant's plan for financing provides for a loan of funds
26 from sources other than the State of West Virginia, the bank may take a subordinate security
27 interest. The bank may recover from the revolving loan fund amounts actually expended by the
28 bank for legal fees and to affect a redemption.

§31A-8G-25. Residential mortgages.

1 (a) The bank may establish a residential mortgage loan program under which the bank
2 may originate residential mortgages if private sector mortgage loan services are not reasonably
3 available. Under this program a local financial institution or credit union may assist the bank in
4 taking a loan application, gathering required documents, ordering required legal documents, and

5 maintaining contact with the borrower.

6 (b) If the bank establishes a program under this section, at a minimum the program must
7 provide:

8 (c) An applicant must be referred to the bank by a local financial institution or credit union;

9 (d) The loan application must be for an owner-occupied primary residence;

10 (e) The bank provides all regulatory disclosures, process and underwrite the loan, prepare
11 closing documents, and disburse the loan; and

12 (f) The terms of the loan originated by the bank must provide:

13 (1) The amount of the loan may not exceed an amount to be established by bank policy;

14 (2) The term of the loan may not exceed 30 years;

15 (3) The rate of the loan must be equal to the bank's market rate;

16 (4) The maximum loan to value may not exceed 80 percent of appraised value; however,
17 a local financial institution or credit union may take a second mortgage that does not exceed a
18 combined loan to value of 95 percent; and

19 (5) Standard credit underwriting and documentation applies.

20 (g) The bank may sell eligible first-time home buyer loans to the West Virginia Housing
21 Finance Agency.

§31A-8G-26. Required transfer; special education contract costs.

1 If the Board of Banking and Financial Institutions is notified by the State Superintendent
2 of Free Schools that, using all available sources, there are insufficient moneys with which to fully
3 reimburse school districts for the excess costs of serving the one percent of special education
4 students statewide who require the greatest school district expenditures in order to be provided
5 with special education and related services, the Board of Banking and Financial Institutions shall
6 transfer from the earnings and accumulated and undivided profits of the State Bank of West
7 Virginia the amount that the State Superintendent of Free Schools certifies is necessary to provide
8 the statutorily required level of reimbursement. The State Superintendent of Free Schools shall

9 file for introduction legislation requesting that the ensuing Legislature return any amount
10 transferred under this section to the State Bank of West Virginia.

§31A-8G-27. Rebuilders loan program; loan fund; continuing appropriation requirements.

1 (a) The State Bank of West Virginia shall maintain a loan fund to make or participate in
2 loans to West Virginia residents affected by a presidentially declared disaster in the state for the
3 purpose of the resident rebuilding the resident's flood-damaged home, rebuilding nonowner-
4 occupied property, or purchasing a new home or federal emergency management agency
5 temporary housing unit located in a community-approved group housing site in the disaster-
6 impacted community. For a resident rebuilding the resident's flood-damaged home or purchasing
7 a new home, up to 20 percent of the loan proceeds disbursed under this program may be used
8 for debt service, debt retirement, or other credit obligations. All moneys transferred into the fund,
9 interest upon moneys in the fund and payments to the fund of principal and interest on loans
10 made from the fund are appropriated for the purpose of providing loans in accordance with this
11 section.

12 (b) The bank shall administer and supervise the loan fund and loans made from the fund.

13 (c) The bank may deduct, from interest payments received on loans, a service fee for
14 administering the fund for the bank and originating financial institutions. An application for a loan
15 from the fund must be made to the bank or originating financial institution and, upon approval, a
16 loan must be made from the fund in accordance with this section.

17 (d) A loan may be made from the fund only to a resident of a federal emergency
18 management agency temporary housing unit located in a community-approved group housing
19 site, a homeowner residing, or owner of nonowner-occupied property in an area in this state in
20 which federal emergency management agency individual assistance was available to
21 homeowners after a presidentially declared disaster in the state as a result of a flood event
22 occurring during the past five years. A loan may be made from the fund only to a resident of a
23 federal emergency management agency temporary housing unit located in a community-

24 approved group housing site or a homeowner residing in this state whose home, or owner of
25 nonowner-occupied property whose property, was granted a reduction in true and full valuation
26 from the individual's property's pre-flood value by an assessment reduction pursuant to the
27 Governor's executive order on flooding or by an abatement for flood-damaged property granted
28 by county commissioners. In order for an owner of nonowner-occupied property to qualify for a
29 loan under this section, the owner of the property must have been the owner at the time of the
30 presidentially declared disaster and the number of households in the property rebuilt under this
31 section must remain the same as before the presidentially declared disaster. The owner of
32 nonowner-occupied property is eligible for only one loan for nonowner-occupied property under
33 this section and that loan must be secured by the property for which the loan is made. An initial
34 loan made to a home owner or owner of nonowner-occupied property under this section from
35 state funds may not exceed \$30,000 or the actual amount of documented damage not paid by
36 flood insurance, whichever is less. A supplemental loan of up to \$20,000 may be made to a
37 homeowner who has received an initial loan under this section if the full amount of the initial loan
38 and supplemental loan is secured by the property and does not exceed the actual amount of
39 documented damage not paid by flood insurance. A loan made to a resident of a federal
40 emergency management agency temporary housing unit located in a community-approved group
41 housing site may not exceed \$30,000 or the purchase price as established by the federal
42 emergency management agency, whichever is less. For purposes of this section, "nonowner-
43 occupied property" means property consisting of one or more rental dwelling units, none of which
44 is occupied by the owner, and does not include hotel or motel accommodations or any other
45 commercial property.

46 (e) A loan from the fund must have the interest rate fixed at one percent per year for no
47 more than 20 years.

48 (f) For every loan made from the fund to a homeowner to rebuild or replace that individual's
49 flood-damaged home, principal and interest payments must be deferred for the first 24 months of

50 the loan. There is no deferral of principal and interest payments for a loan for nonowner-occupied
51 property.

52 (g) A loan application for an initial loan to a homeowner or for a federal emergency
53 management agency temporary housing unit or for a loan for nonowner-occupied property under
54 this section may not be accepted after September 30, 2018. A loan application for a supplemental
55 loan to a homeowner may not be accepted before October 1, 2020, nor after December 31, 2020.

56 (h) If, subsequent to receiving a loan from the fund, the property for which the loan was
57 made is purchased for flood mitigation purposes or otherwise sold, the balance of the loan and
58 any interest accrued on the loan must be repaid to the fund upon the closing of the sale. If the
59 rebuilders loan borrower provides financial evidence satisfactory to the State Bank of West
60 Virginia to show that the borrower does not have the financial ability to repay the rebuilders loan
61 in full upon sale of the property, after the sale of the property the State Bank of West Virginia may
62 allow the borrower to continue to make payments based on the loan terms.

63 (i) The Board of Banking and Financial Institutions shall contract with a certified public
64 accounting firm to audit the fund as necessary. The cost of the audit, and any other actual costs
65 incurred by the bank on behalf of the fund, must be paid by the fund. The bank shall adopt policies
66 to implement this section.

**§31A-8G-28. Medical facility infrastructure loan program; continuing appropriation; audit
and costs of administration.**

1 (a) The State Bank of West Virginia shall administer a loan program to provide loans to
2 medical facilities to conduct construction that improves the health care infrastructure in the state
3 or improves access to existing nonprofit health care providers in the state. The construction
4 project may include land purchases and may include purchase, lease, erection or improvement
5 of any structure or facility to the extent the governing board of the health care facility has the
6 authority to authorize such activity.

7 (b) In order to be eligible under this loan program, the applicant must be the governing

8 board of the health care facility which submits an application to the bank. The application must:

9 (1) Detail the proposed construction project, which must be a project of at least \$1 million
10 and which is expected to be utilized for at least 30 years;

11 (2) Demonstrate the need and long-term viability of the construction project; and

12 (3) Include financial information as the bank may determine appropriate to determine
13 eligibility, such as whether there are alternative financing methods.

14 (c) The Governor shall establish a task force to review loan applications under this section
15 and to make recommendations to the bank on the loan applications. The task force must include
16 representation of medical providers and medical facilities from the gas and coal-producing
17 counties in the state. The task force shall work with the bank to establish criteria for eligibility for
18 a loan under the program. The criteria established by the task force and the bank must give priority
19 to applicants that are located in coal and gas producing counties.

20 (d) A loan provided under this section:

21 (1) May not exceed the lesser of \$15 million or 75 percent of the actual cost of the project;

22 (2) Must have an interest rate equal to one percent; and

23 (3) Must provide a repayment schedule of no longer than 25 years.

24 (e) A recipient of a loan under this section shall complete the financed construction project
25 within 24 months of approval of the loan. Failure to comply with this subsection may result in
26 forfeiture of the entire loan received under this section.

27 (f) The medical facility infrastructure fund is a special fund in the State Treasury. All
28 moneys in the medical facility infrastructure fund are appropriated to the bank on a continuing
29 basis for the purpose of providing loans under this section.

30 (g) Funds in the medical facility infrastructure fund may be used for loans as provided
31 under this section and to pay the costs of administration of the fund. Annually, the bank may
32 deduct a service fee for administering the medical facility infrastructure fund maintained under
33 this section.

34 (h) The medical facility infrastructure fund must be audited in accordance with §31A-8G-
35 18 of this code. The cost of the audit and any other actual costs incurred by the bank on behalf of
36 the fund must be paid from the fund.

37 (i) The bank shall deposit loan repayment funds in the medical facility infrastructure fund.

38 (j) After deduction of fees and costs as provided in this section, the bank shall make an
39 annual transfer of repayment funds deposited in the medical facility infrastructure fund to the State
40 Treasurer for deposit in the strategic investment and improvements fund.

41 (k) The State Bank of West Virginia shall service loans made under the medical facility
42 infrastructure loan program. The repayment schedule of these loans may not exceed 25 years.

43 (l) Funds in the medical facility infrastructure fund may be used for loans as provided under
44 this section and to pay the costs of administration of the fund. Annually, the bank may deduct a
45 service fee for administering the Medical Facility Infrastructure Fund maintained under this
46 section.

47 (m) The Medical Facility Infrastructure Fund must be audited in accordance with §31A-
48 8G-18 of this code. The cost of the audit and any other actual costs incurred by the bank on behalf
49 of the fund must be paid from the fund.

50 (n) The bank shall deposit loan repayment funds in the Medical Facility Infrastructure
51 Fund.

52 (o) After deduction of fees and costs as provided in this section, the bank shall make an
53 annual transfer of repayment funds deposited in the Medical Facility Infrastructure Fund to the
54 State Treasurer for deposit in the Strategic Investment and Improvements Fund.

§31A-8G-29. Funds received in relation to federal student loan program; administration
continuing appropriation.

1 (a) The State Bank of West Virginia shall administer and manage the funds received in
2 relation to the federal student loan program under section 2212 of the Health Care and Education
3 Reconciliation Act of 2010, Pub.L.111-152.

4 (b) The funds shall be used to support the functions of the bank related to higher
5 education.

6 (c) The funds received by the bank under this section are appropriated on a continuing
7 basis to be used as provided in this section.

NOTE: The purpose of this bill is to create the "State Bank of West Virginia" that is owned, controlled and operated by the state for the purpose of encouraging and promoting agriculture, commerce and industry.

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