

SB 286

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
Regular Session, 2004



**ENROLLED**

SENATE BILL NO. 286

(By Senator Minard )



PASSED March 12, 2004

In Effect 90 days from Passage

FILED

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## Senate Bill No. 286

(BY SENATOR MINARD)

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[Passed March 12, 2004; in effect ninety days from passage.]

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AN ACT to amend and reenact §31A-2-8 of the code of West Virginia, 1931, as amended, relating to the assessment of regulated consumer lenders.

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

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

**ARTICLE 2. DIVISION OF BANKING.**

**§31A-2-8. Commissioner's assessments and examination fund; assessments, costs and expenses of examinations; collection.**

1 (a) All moneys collected by the commissioner from  
2 financial institutions and bank holding companies for  
3 assessments, examination fees, investigation fees or other  
4 necessary expenses incurred by the commissioner in  
5 administering such duties shall be paid to the commis-  
6 sioner and paid by the commissioner to the treasurer of the  
7 state to the credit of a special revenue account to be  
8 known as the "commissioner's assessment and examina-  
9 tion fund" which is hereby established. The assessments  
10 and fees paid into this account shall be appropriated by  
11 law and used to pay the costs and expenses of the division

12 of banking and all incidental costs and expenses necessary  
 13 for its operations. At the end of each fiscal year, if the  
 14 fund contains a sum of money in excess of twenty percent  
 15 of the appropriated budget of the division of banking, the  
 16 amount of the excess shall be transferred to the general  
 17 revenue fund of the state. The Legislature may appropri-  
 18 ate money to start the special revenue account.

19 (b) The commissioner of banking shall charge and collect  
 20 from each state banking institution or other financial  
 21 institution or bank holding company and pay into a special  
 22 revenue account in the state treasury for the division of  
 23 banking assessments as follows:

24 (1) For each state banking institution, a semiannual  
 25 assessment payable on the first day of January and the  
 26 first day of July, each year, computed upon the total assets  
 27 of the banking institution shown on the report of condition  
 28 of the banking institution filed as of the preceding thirti-  
 29 eth day of June and the thirty-first day of December,  
 30 respectively, as follows:

31 **Total Assets**

32	Over	But Not Over	This	Plus	Of Excess Over
33	Million	Million	Amount		Million
34					
35	\$ 0	\$ 2	\$ 0	.001645020	0
36	2	20	3,290	.000205628	2
37	20	100	6,991	.000164502	20
38	100	200	20,151	.000106926	100
39	200	1,000	30,844	.000090476	200
40	1,000	2,000	103,225	.000074026	1,000
41	2,000	6,000	177,251	.000065801	2,000
42	6,000	20,000	440,454	.000055988	6,000
43	20,000	40,000	1,224,292	.000052670	20,000

44 (2) For each regulated consumer lender, an annual  
 45 assessment payable on the first day of July, each year,  
 46 computed upon the total outstanding gross loan balances  
 47 and installment sales contract balances net of unearned  
 48 interest of the regulated consumer lender shown on the  
 49 report of condition of the regulated consumer lender as of

50 the preceding thirty-first day of December, respectively, as  
51 follows:

52 **Total Outstanding Balances**

53		<b>But Not</b>	<b>This</b>	<b>Plus</b>	<b>Of Excess</b>
54	<b>Over</b>	<b>Over</b>	<b>Amount</b>		<b>Over</b>
55	\$ 0	\$ 1,000,000	800	—	—
56	1,000,000	5,000,000	800	.000400	1,000,000
57	5,000,000	10,000,000	2,400	.000200	5,000,000
58	10,000,000	—	4,200	.000100	10,000,000

59 If a regulated consumer lender's records or documents  
60 are maintained in more than one location in this state,  
61 then eight hundred dollars may be added to the assessment  
62 for each additional location.

63 In addition to the assessment provided in this subdivi-  
64 sion, the commissioner shall charge and collect from each  
65 regulated consumer lender the actual and necessary costs  
66 and expenses incurred in connection with any examination  
67 of a regulated consumer lender.

68 (3) For each credit union, an annual assessment as  
69 provided for in section eight, article one, chapter thirty-  
70 one-c of this code as follows:

71 **Total Assets**

72		<b>But Not</b>	<b>This</b>		<b>Of Excess</b>
73	<b>Over</b>	<b>Over</b>	<b>Amount</b>	<b>Plus</b>	<b>Over</b>
74	\$ 0	\$ 100,000	100	—	—
75	100,000	500,000	300	—	—
76	500,000	1,000,000	500	—	—
77	1,000,000	5,000,000	500	.000400	1,000,000
78	5,000,000	10,000,000	2,100	.000200	5,000,000
79	10,000,000	—	3,100	.000100	10,000,000

80 (4) For each bank holding company, an annual assess-  
81 ment as provided for in section eight, article eight-a of this  
82 chapter. The annual assessment may not exceed ten dollars  
83 per million dollars in deposits rounded off to the nearest  
84 million dollars.

85 (c) The commissioner shall each December and each  
86 June prepare and send to each state banking institution a  
87 statement of the amount of the assessment due. The  
88 commissioner shall further, each June, prepare and send to  
89 each regulated consumer lender and each state credit  
90 union a statement of the amount of the assessment due.  
91 The commissioner shall annually, during the month of  
92 January, prepare and send to each bank holding company  
93 a statement of the amount of the assessment due.

94 Assessments may be prescribed every six months, not  
95 later than the fifteenth day of June and the fifteenth day  
96 of December, by written order of the commissioner, but  
97 shall not exceed the maximums as set forth in subsection  
98 (b) of this section. In setting the assessments the primary  
99 consideration shall be the amount appropriated by the  
100 Legislature for the division of banking for the correspond-  
101 ing annual period. Reasonable notice of the assessments  
102 shall be made to all interested parties. All orders of the  
103 commissioner for the purpose of setting assessments are  
104 not subject to the provisions of the West Virginia adminis-  
105 trative procedures act under chapter twenty-nine-a of this  
106 code.

107 (d) For making an examination within the state of any  
108 other financial institution for which assessments are not  
109 provided by this code, the commissioner of banking shall  
110 charge and collect from such other financial institution  
111 and pay into the special revenue account for the division  
112 of banking the actual and necessary costs and expenses  
113 incurred in connection therewith, as fixed and determined  
114 by the commissioner. Banks that provide only trust or  
115 other nondepository services, nonbanking subsidiaries of  
116 bank holding companies that provide trust services,  
117 nonbanking subsidiaries of banks that provide trust  
118 services and any trust entity that is jointly owned by  
119 federally insured depository institutions may be assessed  
120 for necessary costs and expenses associated with an  
121 examination pursuant to this subsection.

122 (e) If the records of an institution are located outside  
123 this state, the institution at its option shall make them  
124 available to the commissioner at a convenient location  
125 within the state or pay the reasonable and necessary

126 expenses for the commissioner or his or her representatives  
127 to examine them at the place where they are maintained.  
128 The commissioner may designate representatives, includ-  
129 ing comparable officials of the state in which the records  
130 are located, to inspect them on his or her behalf.

131 (f) The commissioner of banking may maintain an action  
132 for the recovery of all assessments, costs and expenses in  
133 any court of competent jurisdiction.

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

*[Handwritten Signature]*  
.....  
Chairman Senate Committee

*[Handwritten Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Handwritten Signature]*  
.....  
Clerk of the Senate

*[Handwritten Signature]*  
.....  
Clerk of the House of Delegates

*[Handwritten Signature]*  
.....  
President of the Senate

*[Handwritten Signature]*  
.....  
Speaker House of Delegates

The within is approved this the 5th  
Day of April, 2004.

*[Handwritten Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR  
DATE 3/22/04  
TIME 3:50 pm