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SB271

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2006

ENROLLED

SENATE BILL NO. 271

(By Senator Minard, et al)

PASSED March 7, 2006

In Effect 90 days from Passage

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Senate Bill No. 271

(BY SENATORS MINARD, JENKINS, BARNES AND PLYMALE)

[Passed March 7, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §31A-4-35 of the Code of West Virginia, 1931, as amended, relating to the time period for which state banks must retain records.

Be it enacted by the Legislature of West Virginia:

That §31A-4-35 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.

§31A-4-35. Reproduction of checks and other records; admissibility of copies in evidence; disposition of originals; record production generally.

- 1 (a) Any bank may cause to be copied or reproduced, by
- 2 any photographic, photostatic, microphotographic or by
- 3 similar miniature photographic process or by nonerasable
- 4 optical image disks (commonly referred to as compact
- 5 disks) or by other records retention technology approved

6 by rule of the Commissioner of Banking, all or any number
7 of its checks and all or any part of its documents, books,
8 records, correspondence and all other instruments, papers
9 and writings in any manner relating to the operation of its
10 business, other than its notes, bonds, mortgages and other
11 securities and investments, and may substitute such copies
12 or reproductions either in positive or negative form for the
13 originals thereof. Thereafter, such copy or reproduction in
14 the form of a positive print thereof shall be deemed for all
15 purposes to be an original counterpart of and shall have
16 the same force and effect as the original thereof and shall
17 be admissible in evidence in all courts and administrative
18 agencies in this state, to the same extent and for the same
19 purposes as the original thereof, and the banking institu-
20 tion may destroy or otherwise dispose of the original, but
21 every banking institution shall retain either the originals
22 or such copies or reproductions of its records of final
23 entry, including, without limiting the generality of the
24 foregoing, cards used under the card system and deposit
25 tickets for deposits made, for a period of at least five years
26 from the date of the last entry on such books or the date of
27 making of such deposit tickets and card records or, in the
28 case of a banking institution exercising trust or fiduciary
29 powers, accounting and legal records shall be retained
30 until the expiration of five years from the date of termina-
31 tion of any trust or fiduciary relationship relating to such
32 accounting and legal records by a final accounting, release,
33 court decree or other proper means of termination and
34 supporting documentation for fiduciary account transac-
35 tions shall be retained for five years from the dates of
36 entry of such transactions.

37 All circumstances surrounding the making or issuance of
38 such checks, documents, books, records, correspondence
39 and other instruments, papers or writings, or the photo-
40 graphic, photostatic or microphotographic copies or
41 optical disks or other permissible reproductions thereof,
42 when the same are offered in evidence, may be shown to
43 affect the weight but not the admissibility thereof.

44 Any device used to copy or reproduce such documents
45 and records shall be one which correctly and accurately
46 reproduces the original thereof in all details and any disk
47 or film used therein shall be of durable material.

48 (b) When a subpoena duces tecum is served upon a
49 custodian of records of any bank in an action or proceed-
50 ing in which the bank is neither a party nor the place
51 where any cause of action is alleged to have arisen and the
52 subpoena requires the production of all or any part of the
53 records of the bank relating to the conduct of its business
54 with its customers, the bank shall be entitled to a search
55 fee not to exceed ten dollars, together with reimbursement
56 for costs incurred in the copying or other reproduction of
57 any such record or records which have already been
58 reduced to written form, in an amount not to exceed
59 seventy-five cents per page. Any and all such costs shall
60 be borne by the party requesting the production of the
61 record or records.

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

Candy White
.....
Chairman Senate Committee

R. Bruce
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

David E. Holmes
.....
Clerk of the Senate

Bryce M. Snow
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Robert S. Taylor
.....
Speaker House of Delegates

The within *is approved* this the *22nd*
Day of *March*, 2006.

Paul M. Hancock
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 17 2006

Time 11:05 am