

# **WEST VIRGINIA LEGISLATURE**

FIRST REGULAR SESSION, 2011



# **ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**House Bill No. 2882**

(By Delegates Perry, Moore, Reynolds, Hall,  
Walters, Hartman, J. Miller, Azinger and Ashley)



Passed February 22, 2011

In Effect Ninety Days From Passage

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## **H. B. 2882**

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[Passed February 22, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §31A-2-8 of the Code of West Virginia, 1931, as amended, relating to the Commissioner's Assessment and Examination Fund; allowing the Commissioner of Banking to assess state banking institutions quarterly rather than on a semiannual basis by establishing additional assessment dates on April 1 and October 1; and providing that the Commissioner of Banking shall prepare and send bank assessments by March 15 and September 15.

*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 commissioner  
6 and paid by the commissioner to the treasurer of the state to  
7 the credit of a special revenue account to be known as the  
8 “commissioner’s assessment and examination fund” which is  
9 hereby established. The assessments and fees paid into this  
10 account shall be appropriated by law and used to pay the  
11 costs and expenses of the Division of Banking and all  
12 incidental costs and expenses necessary for its operations. At  
13 the end of each fiscal year, if the fund contains a sum of  
14 money in excess of twenty percent of the appropriated budget  
15 of the Division of Banking, the amount of the excess shall be  
16 transferred to the General Revenue Fund of the state. The  
17 Legislature may appropriate money to start the special  
18 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 quarterly  
25 assessment payable on January 1, April 1, July 1, and  
26 October 1 each year, computed upon the total assets of the  
27 banking institution shown on the report of condition of the  
28 banking institution filed as of the preceding June 30,  
29 September 30, December 31 and March 31, respectively, as  
30 follows:

31	<b>Total Assets</b>				
32		<b>But Not</b>			<b>Of Excess</b>
33	<b>Over</b>	<b>Over</b>	<b>This</b>		<b>Over</b>
34	<b>Million</b>	<b>Million</b>	<b>Amount</b>	<b>Plus</b>	<b>Million</b>
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 July 1, each year, computed upon the  
 46 total outstanding gross loan balances and installment sales  
 47 contract balances net of unearned interest of the regulated  
 48 consumer lender shown on the report of condition of the  
 49 regulated consumer lender as of the preceding thirty-first day  
 50 of December, respectively, as follows:

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

58 If a regulated consumer lender's records or documents  
 59 are maintained in more than one location in this state, then

60 eight hundred dollars may be added to the assessment for  
 61 each additional location.

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

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

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

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

84 (c) The commissioner shall each December, March, June  
 85 and September prepare and send to each state banking  
 86 institution a statement of the amount of the assessment due.  
 87 The commissioner shall further, each June, prepare and send  
 88 to each regulated consumer lender and each state credit union  
 89 a statement of the amount of the assessment due. The

90 commissioner shall annually, during the month of January,  
91 prepare and send to each bank holding company a statement  
92 of the amount of the assessment due.

93 State banking institution assessments may be prescribed  
94 every three months, not later than June 15, September 15,  
95 December 15 and March 15 by written order of the  
96 commissioner, but shall not exceed the maximums as set  
97 forth in subsection (b) of this section. In setting the  
98 assessments the primary consideration shall be the amount  
99 appropriated by the Legislature for the Division of Banking  
100 for the corresponding annual period. Reasonable notice of  
101 the assessments shall be made to all interested parties. All  
102 orders of the commissioner for the purpose of setting  
103 assessments are not subject to the provisions of the West  
104 Virginia administrative procedures act under chapter twenty-  
105 nine-a of this code.

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

120 (e) If the records of an institution are located outside this  
121 state, the institution at its option shall make them available to  
122 the commissioner at a convenient location within the state or

123 pay the reasonable and necessary expenses for the  
124 commissioner or his or her representatives to examine them  
125 at the place where they are maintained. The commissioner  
126 may designate representatives, including comparable officials  
127 of the state in which the records are located, to inspect them  
128 on his or her behalf.

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

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

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

To take effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2011.

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*Governor*