

ENROLLED

**Senate Bill No. 283**

(By Senators Nohe, Gaunch  
and Plymale)

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[Passed March 11, 2015; in effect ninety days from passage.]

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AN ACT to amend and reenact §31A-4-40 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31A-8-12d of said code, all relating to state banking institutions; removing restrictions on closure of banks on weekdays; removing requirement of board resolution and legal advertisement for any change in days or hours a bank office is open for business; establishing certain requirements to be met prior to changing days or hours a bank office is open for business; and reducing time for consideration of expedited branch applications from thirty-five days to twenty-one days.

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

That §31A-4-40 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §31A-8-12d of said code be amended and reenacted, all to read as follows:

**ARTICLE 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.**

**§31A-4-40. Permissive closing on fixed weekday or portions of weekdays; notice of closings; emergency closings; procedures.**

1           (a) Any banking institution may elect to operate branches that are open for business on the  
2 days and for the hours as determined appropriate by that banking institution. Prior to changing the

1 days or hours a branch or main office will be open for business, the banking institution shall provide  
2 notice of the change to its customers in the form of conspicuous signage in the lobby and any drive-  
3 through lanes at that branch posted at least forty-five days prior to the change. The banking  
4 institution shall also provide the Commissioner of Financial Institutions with forty-five days'  
5 advance written notice of the change.

6 (b) Any banking institution may close, without notice, during any period of actual or  
7 threatened enemy attack affecting the community in which the banking institution is located or  
8 during any period of other emergency including, but not limited to, fire, flood, hurricane, riot, snow  
9 or civil commotion: *Provided*, That the commissioner shall be notified of any closing made pursuant  
10 to this subsection as soon as practical thereafter.

11 (c) Any fixed weekday and/or portion of one or more weekdays on which any banking  
12 institution elects to close and any period during which the commissioner may permit it to close  
13 pursuant to the authority of this section is a legal holiday with respect to the banking institution and  
14 not a business day or banking day for the purposes of the law relating to negotiable instruments and  
15 any act or contract authorized, required or permitted to be carried out or performed at, by or with  
16 respect to the banking institution may be performed on the next business or banking day and no  
17 liability or loss of rights on the part of any person or banking institution shall result therefrom.

18 **ARTICLE 8. HEARINGS; ADMINISTRATIVE PROCEDURES; JUDICIAL REVIEW;**  
19 **UNLAWFUL ACTS; PENALTIES.**

20 **§31A-8-12d. Expedited procedure for authorization of de novo branch banks.**

21 (a) As an alternative to using the procedures established in subdivisions (g) through (j),  
22 inclusive, section twelve of this article, a banking institution desiring to establish a branch bank by  
23 de novo construction or lease may file a notice, containing information as prescribed by the

1 commissioner, of its intent which must be received by the commissioner at least twenty-one days  
2 prior to the date on which the proposed branch will be established accompanied by a fee of \$250.  
3 The commissioner shall provide written notice of his or her acceptance or rejection of the branch  
4 notice prior to the expiration of the 21-day period. However, if the commissioner requests additional  
5 information from the branching institution, the period for the commissioner’s consideration of the  
6 notice is extended an additional fifteen days from the time the information requested is received by  
7 the commissioner.

8 (b) A state banking institution may not establish a branch bank under this section until the  
9 commissioner provides written approval of the notice for that branch bank. The commissioner’s  
10 approval or rejection of the notice must be accompanied by findings of fact on whether the applicant  
11 bank:

12 (1) Satisfies such reasonable and appropriate requirements as to sound financial condition.  
13 For purposes of this subdivision, “sound financial condition” means that a state banking institution  
14 meets the required minimum level to be well capitalized for each capital measure as determined by  
15 its primary federal regulator and is not subject to supervisory action by either a state or federal  
16 financial regulatory agency;

17 (2) Meets a satisfactory standard of compliance with federal and state community  
18 reinvestment act requirements as evidenced by its most recent state or federal examination;

19 (3) Meets a satisfactory standard of compliance with federal and state consumer compliance  
20 law and regulations as evidenced by its most recent state or federal regulatory examination;

21 (4) Meets the acceptable standards for investment in premises and fixed assets as permitted  
22 by section thirteen, article four of this chapter; and

23 (5) Does not present a significant supervisory concern or raise a significant legal or policy

1 issue by filing the application.

2 (c) Any party who is adversely affected by an action of the commissioner taken pursuant to  
3 the criteria established by subsection (b) of this section may appeal within ten business days of the  
4 commissioner's decision to the Board of Banking and Financial Institutions which must, after  
5 holding a hearing pursuant to the provisions of subdivision (12), subsection (b), section two, article  
6 three of this chapter, affirm, reverse or modify the order of the commissioner. Any party who is  
7 adversely affected by an order of the Board of Banking and Financial Institutions issued pursuant  
8 to the provisions of this subsection is entitled to judicial review in the same manner as provided by  
9 the provisions of subsection (k), section twelve of this article.