

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4245

BY DELEGATES WALTERS, FRICH, WESTFALL,
MCCUSKEY, MANCHIN, SKINNER, ROWE, FLANIGAN,
WAXMAN, PERRY AND B. WHITE

BY REQUEST OF THE WEST VIRGINIA DIVISION OF
FINANCIAL INSTITUTIONS

[Introduced January 25, 2016; Referred
to the Committee on Banking and Insurance then the
Judiciary.]

1 A BILL to amend and reenact §31A-4-20 of the Code of West Virginia, 1931, as amended relating
 2 to requiring the cashier or executive officer of a banking institution to provide shareholders
 3 with the institution's most recent year-end audited financial statement and requiring that
 4 the board of directors of a bank, or its controlling bank holding company, appoint an
 5 outside auditing firm in lieu of having the shareholders appoint a bank examining
 6 committee and eliminating the requirement that a bank transmit a copy of an audit report
 7 of its financial condition to the division of financial institutions and further eliminating the
 8 ability to require the presence of the examining committee or executive committee during
 9 an examination.

Be it enacted by the Legislature of West Virginia:

1 That §31A-4-20 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.

**§31A-4-20. Stockholders' annual meeting; financial statement; appointment, duties and
 report of ~~examining committee; employment of accountants; examiners may
 require presence of executive or examining committee~~ outside auditing firm.**

1 (a) The stockholders of each state banking institution shall meet annually. ~~and At such the~~
 2 annual meeting it ~~shall be~~ is the duty of the cashier or other executive officer of ~~such the~~
 3 institution to prepare and submit to the stockholders a clear and concise statement of the ~~financial~~
 4 ~~condition of the corporation as of the close of business on the last day of the month next preceding~~
 5 institution's most recent year-end audited financial statements. This requirement is satisfied if the
 6 banking institution mails its shareholders annual audited financial statements, which may be
 7 consolidated or combined statements of the banking institution, its holding company and any
 8 subsidiaries, that include a balance sheet as of the end of the fiscal year, an income statement
 9 for that year and a statement of changes in shareholders' equity for the year, within one hundred
 10 twenty days of the close of the fiscal year.

11 ~~(b) At such meeting, the stockholders present in person or by proxy shall elect an~~
12 ~~examining committee composed of not less than three nor more than five persons, each of whom~~
13 ~~shall be a stockholder either in such banking institution~~ The board of directors of the banking
14 institution or, if such banking institution is controlled by a bank holding company, in that bank
15 holding company shall appoint an outside auditing firm on an annual basis to serve as the banking
16 institution's auditor for the year.

17 (c) At such time or times as it may be directed to do so by the written request of the board
18 of directors or the Commissioner of Banking Financial Institutions, such ~~committee~~ outside
19 auditing firm shall immediately proceed to examine the condition of the bank and, upon completion
20 of such examination, shall file its report in writing with the board of directors. Such report shall set
21 forth in detail all items included in the assets of the bank which the ~~committee~~ firm has reason to
22 believe are not of the value at which they appear on the books and records of the bank, and shall
23 give the value of each of such items according to its judgment. The board of directors shall cause
24 such report to be retained as a part of the records of the bank. ~~and shall transmit a duly~~
25 ~~authenticated copy thereof to the commissioner of banking~~

26 ~~(d) With the consent and approval of the stockholders, such committee may employ~~
27 ~~registered or certified public accountants to make such examination or make the same in~~
28 ~~conjunction with any official examination made by any supervisory authority.~~

29 ~~(e)~~ (d) The workpapers of any audit, including any materials associated with an audit of
30 the bank's electronic data procedures, shall be made available to the commissioner or to the
31 examiners of the ~~department of banking~~ Division of Financial Institutions upon request, and will
32 be accorded confidentiality in conformity with section four, article two of this chapter.

33 ~~(f) Any official examiner of the department of banking may require the presence of the~~
34 ~~examining committee or the executive committee during his examination.~~

NOTE: The purpose of this bill is to replace the obsolete requirement of establishing an examining committee and clarify that a bank must employ an outside auditing firm. It also provides for shareholders to be given the bank's most recent year-end audited statement at their annual meeting.

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