

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #2

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Division of Banking TITLE NUMBER: 106

RULE TYPE: Legislative CITE AUTHORITY W. Va. Code §31A-2-4(c)(11)

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3


TITLE OF RULE BEING AMENDED: Regulations Governing the Operations
of State Chartered Financial Institutions in West Virginia

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON Aug. 19, 1996 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO MAILED TO THE FOLLOWING ADDRESS:

West Virginia Division of Banking
State Capitol Complex
Building 3, Room 311
Charleston, West Virginia 25305-0240

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

(Authorized Signature)

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL.



DIVISION OF BANKING

Building #3, Room 311 • State Capitol Complex • 1900 Kanawha Blvd., East • Charleston, WV 25305-0240 • FAX: (304) 558-0442

(304) 558-2294

CONSENT TO FILE RULE

July 19, 1996

TO WHOM IT MAY CONCERN:

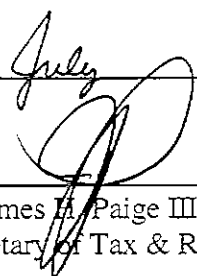
Title of Rule: Rules Governing Off-Premise Bookkeeping Services of Financial Institutions
in West Virginia [*formerly-- Regulations Governing the Operations of State
Chartered Financial Institutions in West Virginia*]

Title Number: 106

Series Number: 3

Pursuant to West Virginia Code §§ 5F-2-2(a) and 64-7-4(c), the undersigned hereby
consents to the filing of the foregoing rule.

Signed this 19th day of July, 1996.



James H. Paige III
Secretary of Tax & Revenue



DIVISION OF BANKING

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COMMISSIONER OF BANKING RULES GOVERNING OFF-PREMISE BOOKKEEPING SERVICES OF FINANCIAL INSTITUTIONS IN WEST VIRGINIA 106 CSR 3

Summary of Proposed Rules

The proposed amendments are intended to provide regulatory relief from the requirement that financial institutions first obtain written consent from the Commissioner and submit for review the proposed contract prior to entering agreements for off-premise bookkeeping services. The provision of such services is now common in the industry, so much so that the rule creates inadvertent breaches by unsuspecting financial institutions. The amendments place only a notification requirement along with written assurance that the provider is subject to regulation and examination by the Commissioner. This approach for non-bank financial institutions parallels that set forth for state chartered banks in W. Va. Code § 31A-5-5, without then adding new requirements for those banks. The rule is also amended to make clear that it does not govern out-of-state state banks which may soon be able to operate in West Virginia under interstate banking law provisions. (See, e.g., W. Va. Code § 31A-8D-1 et seq.).

Lastly the title of the rule is changed to be more specific and descriptive. This change is intended to assist persons in more readily finding and ascertaining rules of the Commissioner of Banking pertaining to this subject.



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COMMISSIONER OF BANKING
RULES GOVERNING OFF-PREMISE BOOKKEEPING SERVICES
OF FINANCIAL INSTITUTIONS IN WEST VIRGINIA
106 CSR 3

Statement of Circumstances

The provision of off-premises bookkeeping and data processing services is now common in the financial industry, so much so that the rule creates inadvertent breaches by unsuspecting institutions. The provisions for notification in W. Va. Code § 31A-5-5 already provide a sufficient regulatory approach for state banks which seek to utilize off-premise bookkeeping services, and should be followed by other financial institutions. The requirement under the present rule that financial institutions first obtain written consent from the Commissioner and submit for review the proposed contract prior to entering agreements for off-premise bookkeeping services is unnecessary.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules Governing Off-Premises Bookkeeping Services of
Financial Institutions in West Virginia [106 CSR 3]

Type of Rule: **Legislative** **Interpretive** **Procedural**

Agency: West Virginia Division of Banking

Address: State Capitol Complex

Building 3, Room 311

Charleston, West Virginia 25305-0240

1. Effect of Proposed Rule:

	ANNUAL		FISCAL YEAR	NEXT	THEREAFTER
	INCREASE	DECREASE			
ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSES	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

The rule is being amended to delete unnecessary requirements and better conform it to provisions in the statute. The amendments thus have no cost effects.

3. Objectives of these rules:

To delete unneeded rule requirements and simply the process of financial institutions establishing off-premises bookkeeping arrangements.

Rule Title: Rules Governing Off-Premises Bookkeeping Services of
Financial Institutions in West Virginia

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government:

None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

None. Although the lessening of regulatory delay may save financial institutions some expenses.

C. Economic Impact on Citizens / Public at Large:

None.

Date: July 19, 1996

Signature of Agency Head or Authorized Representative:

Juan I. B...

TITLE 106
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF BANKING

SERIES 3
~~REGULATIONS GOVERNING THE OPERATIONS OF
STATE-CHARTERED FINANCIAL INSTITUTIONS IN WEST VIRGINIA~~
RULES GOVERNING OFF-PREMISE BOOKKEEPING SERVICES
OF FINANCIAL INSTITUTIONS IN WEST VIRGINIA

§106-3-1. General.

1.1. Scope. -- ~~These regulations establish general rules and regulations for the~~ pertain to the operation of financial institutions ~~chartered by~~ under the primary jurisdiction of the Commissioner of Banking for the State of West Virginia.

1.2. Authority. -- W. Va. Code §31A-2-4(c)(11).

1.3. Filing Date. -- ~~April 22, 1992~~

1.4. Effective Date. -- ~~April 24, 1992~~

§106-3-2. Maintenance of Records and Accounts.

2.1. Off-premise bookkeeping services.

~~Prior to entering into any agreement for the provision of obtaining off-premise data processing bookkeeping services, a financial institution desiring to utilize these services must obtain the written consent of notify the Commissioner of Banking and provide written assurances satisfactory to the Commissioner by both the state financial institution and the party performing such services that the performance thereof will be subject to regulation and examination by the commissioner and any appropriate federal supervisory agency to the same extent as if such services were being performed by the financial institution on its own premises. An application for consent shall include a copy of the proposed contract for the services, which must detail the work to be performed, the reports to be provided and the frequency of the reports. The Commissioner of Banking will not consent to any contract which does not provide for sufficient records to be available to the examining personnel of the Division of Banking for the efficient examination of the financial institution.~~