

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
Commissioner of Banking

West Virginia Code 31A-8-12b
Series VII
(1982)

Subject: Legislative rule pertaining to the installation, operation and sharing of customer bank communication terminals and the utilization of non-exclusive access interchange systems.

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FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 4/11/83
Administrative Law Division

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Title 106

Legislative Rule

~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~
Commissioner of Banking

~~West Virginia Code 31A-8-12b~~
Series VII 7
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FILED IN THE OFFICE OF
A. JAMES MANCHIN
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Subject: Legislative rule pertaining to the installation, operation and sharing of customer bank communication terminals and the utilization of non-exclusive access interchange systems.

Section 1. General

1.01. Scope - These regulations establish general rules implementing West Virginia Code §31A-8-12b, which permits the installation, operation and sharing of customer bank communication terminals and the utilization of non-exclusive access interchange systems.

1.02. Authority - These regulations are issued under authority of West Virginia Code §31A-8-12b(f).

1.03. Filing Date - April 11, 1983.

1.04. Effective Date - May 11, 1983.

Section 2. Sharing customer bank communication terminals

2.01. Mandatory Sharing - Pursuant to West Virginia Code §31A-8-12b(a)(1), any banking institution, which individually or jointly with one or more other banking institutions or other federally insured financial institutions, installs, operates and engages in banking business from a customer bank communication terminal in a location other than on the premises of its principal office, branch bank, or authorized off-premise facility, shall make such customer bank communication terminal available for use by other banking

institutions on a nondiscriminatory basis. The fees and charges required to be paid by any banking institution which utilizes the customer bank communication terminal shall not exceed a pro rata share of the costs, determined in accordance with generally accepted accounting principles, of purchasing or leasing, installing, operating and maintaining the customer bank communication terminal, plus a reasonable rate of return on these costs to the owner or lessee of the customer bank communication terminal.

2.02. Permissive/nondiscriminatory sharing - Pursuant to West Virginia Code §31A-8-12b(a)(2), any banking institution, which individually or jointly with one or more other banking institutions or other federally insured financial institutions, installs, operates and engages in banking business from a customer bank communication terminal may make such customer bank communication terminal available for use by other federally insured financial institutions. A banking institution which makes such a customer bank communication terminal available for use by one other federally insured financial institution shall make that customer bank communication terminal available for use by all other federally insured financial institutions on a nondiscriminatory basis. The charges to be paid by other federally insured financial institutions which utilizes the customer bank communication terminal shall not exceed a pro rata share of the costs, determined in accordance with generally accepted accounting principles, of purchasing or leasing, operating and maintaining the customer bank communication terminal, plus a reasonable return on these costs to the owner of the customer bank communication terminal.

2.03. Written agreement or contract required to be filed with the Commissioner of Banking - The terms and conditions of a banking institution's or other federally insured financial institution's use of a customer bank

communication terminal under 2.01 or 2.02 above shall be governed by a written agreement or contract between the banking institution which installs, operates and engages in banking business from that customer bank communication terminal and the banking institution or other federally insured financial institution whose customers shall use that customer bank communication terminal. The written agreement or contract shall specify all terms and conditions, and shall include the fees and charges for the use of the customer bank communication terminal. A copy of the written agreement or contract shall be filed with the Commissioner of Banking by the banking institution that installs and operates the customer bank communication terminal.

2.04. Hearing before the Commissioner of Banking - Upon the written complaint by a banking institution or federally insured financial institution that it is unreasonably being denied the use of a customer bank communication terminal which has been installed and operated by a banking institution pursuant to 2.01 or 2.02 above, the Commissioner of Banking shall hold a hearing in the manner prescribed in West Virginia Code §31A-8-1. After any such hearing and consideration of all the testimony and evidence on the record, the Commissioner of Banking shall determine whether or not the banking institution or federally insured financial institution has been denied the right to utilize the customer bank communication terminal pursuant to 2.01 or 2.02 above. The Commissioner of Banking may issue an order directing the banking institution that installs and operates the customer bank communication terminal to comply with the provisions of this regulation and of West Virginia Code §31A-8-12b(a) and prescribe the manner and means of so complying.

Section 3. Non-exclusive access interchange system

3.01. Access interchange system - Any banking institution, which individually or jointly with one or more other banking institutions or other federally insured financial institutions, installs, operates and engages in banking business from a customer bank communication terminal, whether that customer bank communication terminal is located on the premises of its principal office, branch bank, or authorized off-premise facility or in a location other than on the premises of its principal office, branch bank, or authorized off-premise facility, and makes that customer bank communication terminal available for use by another banking institution or other federally insured financial institution, has established an access interchange system for purposes of West Virginia Code §31A-8-12b(a).

3.02. Access interchange systems must be non-exclusive - Any access interchange system established according to 3.01 above shall be non-exclusive. Any customer bank communication terminal that communicates with and permits financial transactions to be carried out through an exclusive access interchange system shall be considered to be an illegal branch bank of the banking institution that installs and operates that customer bank communication terminal.

3.03. Written agreement or contract required to be filed with the Commissioner of Banking - The terms and conditions for establishing any access interchange system shall be governed by a written agreement or contract. The written agreement or contract shall specify all terms and conditions, and shall include the interchange fees or charges and the transaction fees or

charges. A copy of the written agreement or contract shall be filed with the Commissioner of Banking by the access interchange system.

3.04. Hearing before the Commissioner of Banking - Upon the written complaint by a banking institution that it is unreasonably being denied utilization of an access interchange system, the Commissioner of Banking shall hold a hearing in the manner prescribed in West Virginia Code §31A-8-1. After any such hearing and consideration of all the testimony and evidence on the record, the Commissioner of Banking shall determine whether or not the banking institution has been denied the right to utilize an access interchange system pursuant to 3.02 above. The Commissioner of Banking may issue an order directing the access interchange system to comply with the provisions of this regulation and West Virginia Code §31A-8-12b(a) and prescribe the manner and means of so complying.

Section 4. Night depository box attached to a customer bank communication terminal

4.01. Night depository box attached to a customer bank communication terminal - For purposes of West Virginia Code 31A-8-12b(c), any night depository box that is attached to a customer bank communication terminal in such a way that a customer electronically communicates with a banking institution is considered to be associated equipment of that customer bank communication terminal, and as such, subject to Section 2 and Section 3 of this regulation and West Virginia Code §31A-8-12b(a).

Technical Clean Up



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SECRETARY OF STATE

(Plus all the volunteer
help we can get)

TO: TIM WINSLOW

AGENCY: DIVISION OF BANKING

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: July 1, 1996

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 7 TITLE: LEGISLATIVE RULE PERTAINING TO THE INSTALLATION, OPERATION & SHARING OF CUSTOMER BANK COMMUNICATION TERMINALS & THE UTILIZATION OF NONEXCLUSIVE ACCESS INTERCHANGE SYSTEM

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Jonathan C. Dunsford
TITLE OF PERSON SIGNING: General Counsel
DATE: 7/1/96

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____
TITLE OF PERSON SIGNING: _____
DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.