

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

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1992 AUG 17 AM 2: 22

**OFFICE OF WEST VIRGINIA
SECRETARY OF STATE**

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia Division of Banking TITLE NUMBER: 106

CITE AUTHORITY West Virginia Code §31A-8B-5

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 12

TITLE OF RULE BEING AMENDED: General Rules Implementing the
West Virginia Community Reinvestment Act

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE
MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT
BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE
FILED WITH THE SECRETARY OF STATE.

Sharon J. Bed

3.20

TITLE 106
LEGISLATIVE RULES
COMMISSIONER OF BANKING

SERIES 12
GENERAL RULES IMPLEMENTING THE WEST VIRGINIA COMMUNITY
REINVESTMENT ACT

FILED
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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§106-12-1. General

1.1. Scope and Purpose. --This regulation rule establishes general rules guidelines implementing Chapter 31A Article 8B W. Va. Code §31A-8B-1 et seq., the West Virginia Community Reinvestment Act, ~~of the West Virginia Code~~; it applies to all bank holding companies, all state-chartered banking institutions, all domestic subsidiaries of bank holding companies and all domestic subsidiaries of state-chartered banks operating or with application to operate in West Virginia. ~~West Virginia Code §31A-8B (et seq.)~~ W. Va. Code §31A-8B-1 et seq. and this regulation rule are intended to encourage banks and bank holding companies to help meet the credit needs of their local community or communities, and to provide guidance to banks and bank holding companies as to how the Commissioner of Banking ("Commissioner") and the West Virginia Board of Banking and Financial Institutions ("Board") will assess the records of these institutions in satisfying their continuing and affirmative obligations to help meet the credit needs of the local communities, including low and moderate-income neighborhoods, consistent with the safe and sound operation of those institutions, ~~and to provide for taking into account these records in connection with certain applications.~~ . The Commissioner and the Board will take the records of applicant banks and bank holding companies in complying with the provisions of both the Federal and West Virginia Community Reinvestment Acts into account when evaluating applications for deposit facilities and applications for permission to engage in financially-related services.

1.2. Authority.--W.Va. Code §31A-8B-5.

1.3. Filing Date.--

1.4. Effective Date.--

§106-12-2. Applicability of Federal Community Reinvestment Act of 1977.

2.1. All state-chartered banks shall comply with the Federal Community Reinvestment Act of 1977 and related regulations heretofore promulgated thereunder. In connection with the examination of a bank, the Commissioner shall assess the record of performance of the bank in helping to meet the credit needs of its entire community, including low - and moderate-income neighborhoods, consistent with the safe and sound operation of the bank. The Commissioner shall consider the factors established in the Federal Community Reinvestment Act of 1977 and related regulations in making this assessment.

106-12-3. Filing Requirements.

3.1. All bank or bank holding company applications requiring Board or Commissioner approval shall include the current Community Reinvestment Act statement required pursuant to the Federal Community Reinvestment Act of 1977 and related regulations issued thereunder. For purposes of a bank holding company application, the applicant bank holding company shall submit the information requested pursuant to these regulations shall be submitted for each of its subsidiary banks located in West Virginia of the applicant bank holding company and each bank located in West Virginia, which it is to be acquired by the applicant bank holding company acquire. For purposes of a bank merger application, the acquiring bank or bank holding company will submit all information requested pursuant to these regulations shall be submitted for each bank or bank holding company involved in the merger.

3.2. In addition to the Community Reinvestment Act (CRA) statement required under subsection 3.1 of this rule, the applicant may include supplemental information supporting the applicant's record of performance in meeting the credit needs of the community or communities it is attempting to serve. Credit activities in the following loan categories will be considered as are considered important and favorable:

(A) Housing-related Loans

1. Federal Housing Authority/Veterans Administrative/Farmers Home Administration mortgage loans.
2. Federal Housing Authority Title I home improvement loans
3. Mobile home loans
4. Loans extended via participation in city, county and/or state housing development agencies
5. Housing loans extended in low- and moderate-income neighborhoods
6. Use of various secondary market programs and participation in such programs
7. In-house housing related loan programs

(B) Commercial and Industrial Loans

1. Small Business Loans
 - (a) Small Business Administration guaranteed loans
 - (b) Farmers Home Administration guaranteed Business and Industrial Loans
 - (c) In-house small business loan programs

2. General Commercial Loans

3. Participation in industrial and economic development programs

(a) Extension of industrial development loans

(b) Purchase of industrial revenue bonds

(c) Investment in local municipal and school bonds (for purpose of this category, local means home county and contiguous counties)

(d) Community purpose loans

(C) Agricultural loans

(D) Consumer loans

1. Student loans

2. Consumer counseling

3. Loans to low- and moderate-income consumers

4. All other

3.3. Out-of-state bank holding companies seeking to acquire a West Virginia bank or West Virginia bank holding company pursuant to West Virginia Code §31A-8A-7 (c) shall, in addition to the filing of the required CRA statements, include a record of any formal protest and hearing held over the last five years regarding the CRA statements performance of the Applicant and all of their currently owned affiliate banks ~~over the last five years.~~

3.4 The applicant shall furnish any additional information that the Board, or the Commissioner may require.

§106-12-4. Assessing The Record Of Performance

~~4.1. The Commissioner shall provide staffing adequate to make the assessment of an applicant's record or performance. The applicant's CRA statement(s) any supplemental information filed, any previously or currently filed formal protests, loan data as available from officially filed reports of condition, and any other information as may be required or considered relevant by the Commissioner or the Board will be used as the basis for assessing an applicant's record of performance.~~

~~4.2. Use of various statistical comparisons, generated from quarterly reports of condition, will be used in assessing a bank's CRA performance, however, their use may not be conclusive. Ratio comparisons will be evaluated by taking into consideration the applicant's relative size, corporate structure (number of branches, etc.) and economic conditions. Some examples of the types of statistical comparisons which may be made are:~~

~~(A) Loan to Deposit Ratio~~

~~(B) Percentage of loans and of deposits in various categories of loans.~~

~~1. real estate loans~~

~~2. consumer loans~~

~~3. commercial and industrial loans~~

~~(C) Trends in loan and deposit categories and loan to deposit ratio.~~

4.1. Whenever the Board or Commissioner receives an application, requiring Board or Commissioner approval, from a banking institution, whose most recent CRA performance rating is "Needs to improve record of meeting community credit needs", the Board or Commissioner shall require the applicant banking institution to provide additional, detailed information, setting forth the measures undertaken by the applicant banking institution to improve its performance under the CRA. The Board or Commissioner shall not accept an application requiring Board or Commissioner approval from banking institutions whose most recent CRA performance rating is "Substantial noncompliance in meeting community credit needs."

4.2. Whenever a bank holding company files an application requiring the approval of the Board or Commissioner, the Board or Commissioner shall assess the record of compliance with the CRA of each of the holding company's subsidiary banks. If, in the opinion of the Board or Commissioner, the overall record of compliance with CRA by the holding company's subsidiary banks is determined to be unsatisfactory, the Board or Commissioner will not accept the application.

§106-12-5. Public Participation.

5.1. For all bank or bank holding company applications requiring Board or Commissioner approval the applicants shall, in conjunction with public notice and publication requirements of the Federal Reserve Board or Federal Deposit Insurance Corporation, include in ~~said notice's~~ the notice the following statement:

"The public is also invited to submit written comments regarding this application to the West Virginia Board of Banking and Financial Institutions. Write Commissioner of Banking, Capitol Complex, Charleston, West Virginia 25305."

5.2. In conjunction with an application, the Commissioner shall make available for public inspection the applicant's CRA statements, the applicant's record of previously filed CRA protests, historical information concerning loan and deposit trends, and any supplemental information filed with the Commissioner.

5.3. A banking institution's record of compliance with the Community Reinvestment Act and ~~these regulations shall be a~~ this rule is a subject for consideration in conjunction with the notice and hearings required by West Virginia Code §31A-3-3.

§106-12-6. Effects On Applications.

6.1 The assessment of an applicant's record of performance in helping to meet the credit needs of its community or communities, may be the basis for denial of an application.

6.2. Notwithstanding any section of this rule to the contrary, ~~the~~ Board or the commissioner may approve applications subject to terms and conditions, which, in the discretion of the Board or the commissioner, are considered necessary to improve the applicant's record of community reinvestment.



WEST VIRGINIA LEGISLATURE
 LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
 Room M-152, State Capitol
 Charleston, West Virginia 25305
 (304) 340-3286

Senator William R. Wooton, Co-Chair
 Delegate David Grubb, Co-Chair

Debra A. Graham, Counsel
 Michael McThomas, Associate Counsel
 Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

August 3, 1992

TO: Ken Hechler, Secretary of State, State Register
 TO: Mr. Richard Lancianese
 Deputy Commissioner
 WV Division of Banking
 Bldg. 3, Room 311
 Charleston, WV 25305-0240
 FROM: Legislative Rule-Making Review Committee
 PROPOSED RULE: General Rules Implementing the West Virginia
 Community Reinvestment Act

1992 AUG -5 AM 4:41
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The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.