

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: West Virginia Division of Banking TITLE NUMBER: 106

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 RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 100

SECTION 64-3-2(1), PASSED ON May 26, 1993

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: July 1, 1993



FILED

TITLE 106
LEGISLATIVE RULES
COMMISSIONER OF BANKING

JUN 9 4 03 PM '93

SERIES 12
GENERAL RULES IMPLEMENTING THE WEST VIRGINIA COMMUNITY STATE
REINVESTMENT ACT

§106-12-1. General

1.1. Scope and Purpose. --This rule establishes general guidelines implementing W. Va. Code §31A-8B-1 et seq., the West Virginia Community Reinvestment Act; 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. W. Va. Code §31A-8B-1 et seq. and this 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. 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 for each of its subsidiary banks located in West Virginia and each bank located in West Virginia, which it is to acquire. For purposes of a bank merger application, the acquiring bank or bank holding company shall submit all information requested pursuant to these regulations 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 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 performance of the Applicant and all of their currently owned affiliate banks.

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. 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 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 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.

SENATE BILL NO. 167

(By Senator Manchin)

[Introduced March 1, 1993; referred to the
Committee on Banking and Insurance; and then
to the Committee on the Judiciary.]

8

9

10 A BILL to amend and reenact section two, article three, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of banking to promulgate legislative rules relating
14 to implementing the West Virginia community reinvestment act.

15 Be it enacted by the Legislature of West Virginia:

16 That section two, article three, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND
20 ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.

21 §64-3-2. Division of banking.

22 (a) The legislative rules filed in the state register on the
23 eleventh day of June, one thousand nine hundred eighty-two,

1 relating to commissioner of banking (communication terminals and
2 interchange systems), are authorized.

3 (b) The legislative rules filed in the state register on the
4 fifteenth day of December, one thousand nine hundred
5 eighty-three, relating to the commissioner of banking (consumer
6 credit sales), are authorized.

7 (c) The legislative rules filed in the state register on the
8 nineteenth day of August, one thousand nine hundred eighty-three,
9 relating to the commissioner of banking (legal lending limit),
10 are authorized.

11 (d) The legislative rules filed in the state register on the
12 seventh day of November, one thousand nine hundred eighty-six,
13 modified by the commissioner of banking to meet the objections of
14 the legislative rule-making review committee and refiled in the
15 state register on the eleventh day of December, one thousand nine
16 hundred eighty-six, relating to the commissioner of banking
17 (implementing the West Virginia community reinvestment act), are
18 authorized.

19 (e) The legislative rules filed in the state register on the
20 twenty-fifth day of October, one thousand nine hundred
21 eighty-eight, modified by the commissioner of banking to meet the
22 objections of the legislative rule-making review committee and
23 refiled in the state register on the seventh day of December, one
24 thousand nine hundred eighty-eight, relating to the commissioner

1 of banking (subsidiary bank holding the stock of its parent
2 company as collateral), are authorized.

3 (f) The legislative rules filed in the state register on the
4 twelfth day of August, one thousand nine hundred ninety-one,
5 modified by the division of banking to meet the objections of the
6 legislative rule-making review committee and refiled in the state
7 register on the fifteenth day of November, one thousand nine
8 hundred ninety-one, relating to the division of banking (West
9 Virginia consumer credit and protection act), are authorized.

10 (g) The legislative rules filed in the state register on the
11 ninth day of August, one thousand nine hundred ninety-one,
12 modified by the division of banking to meet the objections of the
13 legislative rule-making review committee and refiled in the state
14 register on the fifteenth day of November, one thousand nine
15 hundred ninety-one, relating to the division of banking (lease
16 financing transactions), are authorized.

17 (h) The legislative rules filed in the state register on the
18 ninth day of August, one thousand nine hundred ninety-one,
19 modified by the division of banking to meet the objections of the
20 legislative rule-making review committee and refiled in the state
21 register on the fifteenth day of November, one thousand nine
22 hundred ninety-one, relating to the division of banking
23 (operation of state-chartered financial institutions in West
24 Virginia), are authorized.

1 (i) The legislative rules filed in the state register on the
2 twelfth day of August, one thousand nine hundred ninety-one,
3 modified by the division of banking to meet the objections of the
4 legislative rule-making review committee and refiled in the state
5 register on the fifteenth day of November, one thousand nine
6 hundred ninety-one, relating to the division of banking (West
7 Virginia industrial bank and industrial loan company act), are
8 authorized.

9 (j) The legislative rules filed in the state register on the
10 twelfth day of August, one thousand nine hundred ninety-one,
11 modified by the division of banking to meet the objections of the
12 legislative rule-making review committee and refiled in the state
13 register on the fifteenth day of November, one thousand nine
14 hundred ninety-one, relating to the division of banking (West
15 Virginia consumer credit and protection act and the money and
16 interest article of chapter forty-seven), are authorized.

17 (k) The legislative rules filed in the state register on the
18 ninth day of August, one thousand nine hundred ninety-one,
19 modified by the division of banking to meet the objections of the
20 legislative rule-making review committee and refiled in the state
21 register on the fifteenth day of November, one thousand nine
22 hundred ninety-one, relating to the division of banking
23 (permissible additional charges in connection with a consumer
24 credit sale), are authorized.

1 (1) The legislative rules filed in the state register on the
2 twenty-sixth day of June, one thousand nine hundred ninety-two,
3 modified by the division of banking to meet the objections of the
4 legislative rule-making review committee and refiled in the state
5 register on the seventeenth day of August, one thousand nine
6 hundred ninety-two, relating to the division of banking (general
7 rules implementing the West Virginia community reinvestment act),
8 are authorized.

9

10 NOTE: The purpose of this bill is to authorize the Division
11 of Banking to promulgate legislative rules relating to
12 implementing the West Virginia Community Reinvestment Act.

13

14 Strike-throughs indicate language that would be stricken from
15 the present law, and underscoring indicates new language that
16 would be added.



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STATE OF WEST VIRGINIA

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May 28, 1993

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HB 100 authorizing, **Title 106, Series 12, General Rules Implementing the WV Community Reinvestment**, passed the Legislature on **May 26, 1993**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs HB 100, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office. Authorization for your legislative rule is cited in **HB 100** section **64-3-2(1)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, PLEASE SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division