

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AN EMERGENCY RULE

AGENCY: West Virginia Department of Banking TITLE NUMBER: 106

CITE AUTHORITY: W.Va. Code Sections 29A-3-3(a) & 31A-2-4(c) (11).

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: 13

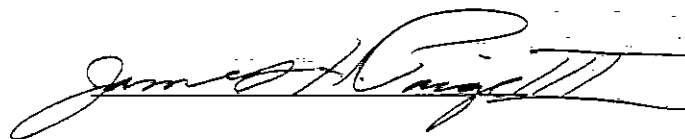
TITLE OF RULE BEING FILED AS AN EMERGENCY: General Administration
of Article 8A Chapter 31A Regarding Acquisition of Bank Shares,
Interstate Issues

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Since the authorization of interstate banking in West Virginia, in January 1988, no formal rules have been established by the Department specifying how applications by bank holding companies, whose principal place of business are in other states, are to be filed. Also, recent changes to West Virginia Code Section 31A-8A-1 do not indicate that reciprocity and co-operative agreements must exist between West Virginia and the state in which a particular bank holding company has its principal place of business, prior to accepting any application for processing. Filing requirements among the states vary widely. These rules will clarify the filing requirements in West Virginia.

Use Additional Sheets If Necessary.



WEST VIRGINIA EMERGENCY LEGISLATIVE RULES

COMMISSIONER OF BANKING

CHAPTER 31A-8A

Title: General Administration of Article 8A, Chapter 31A
Regarding Acquisition of Bank Shares, Interstate Issues

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WEST VIRGINIA EMERGENCY LEGISLATIVE RULES

COMMISSIONER OF BANKING

WEST VIRGINIA CODE §31A-8A-1 ET SEQ.

Title: General Administration of Article 8A, Chapter 31A
Regarding Acquisition of Bank Shares, Interstate Issues.

Section 1. General

1.1 Scope and Purpose - The purpose of these rules is to formalize application procedures for interstate bank holding company acquisition permitted pursuant to provisions of Chapter 31A, Article 8A of the West Virginia Code. The need for this regulation arises due to fact that the Commissioner has entered into cooperative agreements with regulators in other states regarding interstate acquisitions and applications procedures need to be clarified.

1.2 Authority - This regulation is promulgated under the authority of West Virginia Code §31A-2-4(c)(11) and §29A-3-3(a).

1.3 Filing Date -

1.4 Effective Date -

Section 2. Applications to Acquire Bank Shares.

2.1 West Virginia Bank Holding Companies -

(a) West Virginia bank holding companies proposing to acquire a bank or bank holding company in another state should contact the Commissioner in order to determine the appropriate application procedure. In some instances, the Commissioner has made a determination of reciprocity and entered into agreements with other state regulators governing interstate acquisition procedures pursuant to West Virginia Code §31A-8A-7(i).

(b) West Virginia bank holding companies, including those owning or controlling banks or bank holding companies in other states, proposing to acquire an additional bank or bank holding company in West Virginia are subject to West Virginia Code §31A-8A-4 and must submit the necessary application required thereunder.

2.2 Foreign Bank Holding Companies - Foreign bank holding companies proposing to acquire a bank or bank holding company in West Virginia are precluded from doing so under West Virginia Code §31A-8A-1(d) unless the procedures of West Virginia Code §31A-8A-7 are followed. West Virginia Code §31A-8A-1(d), as amended, requires that foreign bank holding companies must comply with the provisions of §31A-8A-7 if acquiring, directly or indirectly, five percent or more of the interest in, or assets of, any bank or bank holding company in West Virginia. (Section 31A-8A-1(d) does not govern or restrict, either as originally drafted or as amended, the acquisitions made by West Virginia bank holding companies.) West Virginia Code §31A-8A-7(d) requires the filing of an application with the Commissioner. Approved application forms may be obtained from the Commissioner. However, foreign bank holding company applicants should contact the Commissioner prior to filing to ascertain whether a determination of reciprocity has been made and the required cooperative agreement has been entered into with the state regulator of the state in which the applicant has its principal place of business.

Section 3. Definitions.

3.1 "West Virginia bank holding company" has the meaning set forth in §31A-8A-7(h)(6).

3.2 "Foreign bank holding company" means a bank holding company with its principal place of business in another state or jurisdiction.

3.3 "Principal place of business" has the meaning set forth in §31A-8A-7(h)(4).

3.4 "Commissioner" means the Commissioner of banking or his designee.

KEN HECHLER
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help we can get)

STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

November 21, 1989

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

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OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

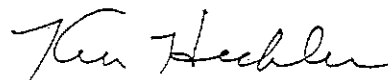
AGENCY: West Virginia Department of Banking

RULE: New Rule, Series 13; General Administration of Article 8A Chapter 31A Regarding Acquisition of Bank Shares, Interstate Issues

DATE FILED AS AN EMERGENCY RULE: October 12, 1989

DECISION NO. 25-89

Following review under WV Code §29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.



KEN HECHLER
Secretary of State

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(Plus all the volunteer
help we can get)

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

DECISION EMERGENCY RULE DECISION
(ERD 25-89)

AGENCY: West Virginia Department of Banking
RULE: New Rule, Series 13, General Administration of Article
8A Chapter 31A Regarding Acquisition of Bank Shares
Interstate Issues

FILED AS AN EMERGENCY RULE: October 12, 1989

- par. 1 The Department of Banking (Banking) has filed the above new rules as emergencies.
- par. 2 West Virginia Code §29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 6 Banking filed this emergency rule with supporting documents with the Secretary of State on October 12, 1989 and with the LRMRC on November 2, 1989.

par. 7 It is the determination of the Secretary of State that Banking has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §31A-2-4(c)(11) reads:

§31A-2-4(c)(11) To implement all of the provisions of this chapter (except the provisions of article three (§31A-3-1 et seq.) and all other laws which he is empowered to administer and enforce by the promulgation of rules and regulations in accordance with the provisions of article three (§29A-3-1 et seq.) chapter twenty-nine a of this Code.

par. 9 It is the determination of the Secretary of State that Banking has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:

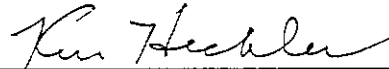
(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by Banking are as follows:

Since the authorization of interstate banking in West Virginia, in January 1988, no formal rules have been established by the Department specifying how applications by bank holding companies, whose principal place of business are in other states, are to be filed. Also, recent changes to West Virginia Code Section 31A-8A-1 do not indicate that reciprocity and cooperative agreements must exist between West Virginia and the state in which a particular bank holding company has its principal place of business, prior to accepting any application for processing. Filing requirements among the states vary widely. These rules will clarify the filing requirements in West Virginia.

- par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of emergency.
- par. 14 This decision shall be cited as Emergency Rule Decision 25-89 or ERD 25-89 and may be cited as precedent. This decision is available from the Secretary of State's office and has been filed with the Department of Banking, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
SECRETARY OF STATE

Entered _____

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