

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark In this Box

FILED
MAY 5 4 06 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: WV Division of Banking TITLE NUMBER: 106

AMENDMENT TO AN EXISTING RULE: YES___, NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 17

TITLE OF RULE BEING PROPOSED: Notice and Treatment of Joint Accounts

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 1005

SECTION 64-3-2(n), PASSED ON March 16, 1994

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: June 6, 1994

Sharon J. Bias

Authorized Signature

3.40

TITLE 106
LEGISLATIVE RULES
COMMISSIONER OF BANKING

SERIES 17
NOTICE AND TREATMENT OF JOINT ACCOUNTS

§ 106-17-1. General.

1.1. Scope-- This rule establishes procedures for the notice to holders of joint deposit accounts regarding their rights and liabilities as to those accounts. In addition, this rule pertains to the treatment of joint deposit accounts in the event of receipt of written notice by a bank from one of their joint deposit account holders informing the bank not to pay, pledge, or encumber the account upon the demand or request of another named party to the joint account.

1.2. Authority-- W. Va. Code §§ 31A-4-33 and 31A-2-4(c)(11).

1.3. Filing Date-- May 5, 1994

1.4. Effective Date-- June 6, 1994

§ 106-17-2. Definitions.

2.1. "Joint Account" means a federally insured deposit account at a bank which is held in the name of two or more individual persons, wherein any one of the named account holders may, without the signature or approval of any other persons to the account, obtain account funds, close the account, or otherwise withdraw the whole amount in the account. Such accounts include, but are not limited to, joint checking accounts, joint savings accounts, joint passbook savings accounts, joint Christmas/Vacation club accounts, and joint certificate of deposit accounts.

2.2. "Bank" means any state-chartered or federally-chartered banking institution authorized to conduct the business of banking in West Virginia, including any savings bank, or savings and loan association.

§ 106-17-3. Notice.

3.1. Existing Joint Account Holders-- If a bank has not notified its existing joint account holders by January 6, 1994 of their rights and liabilities under a joint account by using forms and procedures previously approved by the Commissioner of Banking, then that bank is required, within thirty (30) days of the effective date of this rule, to send a special separate mailing to each and every of its joint account holders using the forms and

procedures approved by the Commissioner of Banking pursuant to this rule.

3.2. Opening New Joint Accounts-- Upon the request of a customer to open a new joint account, a bank shall provide notice to the joint account holders that the joint account may be paid out to, pledged by, or otherwise encumbered by each and any of the individuals to the joint account-- unless prior written notice is given by one of the account holders not to permit it. The wording of the notice provided by the banks to their customers must be approved by the Commissioner of Banking and printed in a clearly legible type size. A bank may comply with this subsection by:

3.2.1. Obtaining the signature of each joint account holder on a separate document containing the required disclosures and approved for such use by the Commissioner of Banking, and then maintaining this signed separate document either together with the joint account's signature card, or in another manner whereby the document is easily retrievable as to each joint account;

3.2.2. Incorporating the required and approved disclosure notice within the signature card or the account opening agreement with the bank, which card or agreement is signed by all the joint account holders; or

3.2.3. Establishing a procedure for ensuring that all persons opening a covered joint account are given the required notice in a form approved by the Commissioner of Banking, and that fact is recorded by a checkbox marked upon the signature card or the account opening agreement accompanying that joint account, which card or agreement is signed by all the joint account holders.

3.3. Notice Forms-- The form of the notice, including the wording contained in the disclosures, shall be approved by the Commissioner of Banking together with any restrictions or specific use of a particular form that the Commissioner may establish. In addition to any other notice form which may be, from time to time, approved by the Commissioner of Banking, banks may use the forms set forth in Appendix A and B of this rule as prescribed in this subsection:

3.3.1. The form in Appendix A may be used when the bank is following the notice procedure set forth in subdivision 3.2.1 of this rule; and

3.3.2. The form in Appendix B may be used when the bank is following the notice procedure set forth in subdivisions 3.2.2. or 3.2.3 of this rule.

3.4. Use of Previously Approved Forms-- Unless a change in law, legislative rule, or determination by a court necessitates immediately altering a notice form previously approved for use by the Commissioner of Banking, banks shall have a reasonable amount of time, up to six months, to replace their existing approved forms. And during that time the banks may continue to use their previously approved forms.

§ 106-17-4. Effect of Written Notice.

4.1. Closing the Account-- Upon receipt of written notice from a customer holding a joint account directing the bank not to allow one or more of the other named parties to that joint account to withdraw funds, close the account, pledge or otherwise encumber the account solely on that party's own signature, then the bank may, unless prevented by federal law, treat that notice as a request to end the joint account relationship and the bank may choose to close the account either by issuing a check in the name of the customer requesting the change, or by transferring the account monies to another account which is in the name of the customer requesting the change.

If there is any loss of accrued interest or other penalty for early withdrawal associated with closing the joint account, the bank may impose the loss or penalty.

4.2. Payment of Interest-- If the account is closed and the monies in the account placed in an escrow account by the bank, then interest shall accrue as is normally paid by the bank on its escrow accounts.

4.3. Noninterference with Bank Pledging Policy-- Nothing within this rule prohibits a bank from adopting as a matter of bank policy, a requirement that all joint account holders must agree and/or sign before any pledge of a joint account can be made.

§ 106-17-5. Non-Liability of Bank

5.1. Upon Closing the Account-- To the extent the bank closes the account acting upon written notice of a joint account holder made pursuant to W. Va. Code § 31A-4-33 the bank has no liability to any affected joint account holder in consequence for taking such action.

5.2. Upon Following Agreement of Parties-- To the extent the bank follows or complies with an agreement among and between all the parties to a joint account as to the apportionment or disposition of funds held in the joint account, the bank has no

liability to any affected joint account holder in consequence for taking such action.

5.3. Upon Compliance with a Court Order-- To the extent the bank follows or complies in good faith with an order from a court as to the apportionment or disposition of funds held in a joint account affected by notice pursuant to W. Va. Code § 31A-4-33, or makes any payment or attachment to a creditor or other legal claimant pursuant to legal process, the bank has no liability to any affected joint account holder in consequence for taking such action.

5.4. Upon Taking Commercially Reasonable Action-- To the extent the bank, in good faith, takes all commercially reasonable action to promptly prevent a joint account holder from withdrawing, closing, pledging or otherwise encumbering such account as directed by another joint account holder's written notice received by the bank, the bank has no liability to any affected joint account holder for being unable to prevent the withdrawal, closing, pledge, or encumbrment.

§ 106-17-6. Severability.

If any word, phrase, or provision of this rule is held to be invalid, the remainder of the rule shall, to the fullest extent possible, not be affected by that holding.

Acct. No. _____

NOTICE TO JOINT ACCOUNT HOLDERS

This joint account is payable in both your name "or" in the name of the other person(s) listed on the account (Example "Mr. Smith or Mrs. Smith").

Please be advised and forewarned that:

- o All the money in this joint account may be withdrawn by anyone named on this account; or may be pledged as security for a loan or debt by anyone named on the account.
-- UNLESS, prior written notice is given to the bank not to permit it.

- o Despite any notification to the bank
-- The bank may pay the entire account balance to a creditor or other legal claimant pursuant to legal process.

I have read and understand the above rules about this joint account.

Signature of Joint Account Holder 1: _____

Signature of Joint Account Holder 2: _____

Signature of Joint Account Holder 3: _____

7/1/93

NOTICE TO JOINT ACCOUNT HOLDERS

This joint account is payable in both your name "or" in the name of the other person(s) listed on the account (Example "Mr. Smith or Mrs. Smith").

Please be advised and forewarned that:

- o All the money in this joint account may be withdrawn by anyone named on this account; or may be pledged as security for a loan or debt by anyone named on the account.
-- UNLESS, prior written notice is given to the bank not to permit it.

- o Despite any notification to the bank
-- The bank may pay the entire account balance to a creditor or other legal claimant pursuant to legal process.

[This form is to be used in incorporating the language in the signature card, or where a checkbox indicating the above disclosure has been made is part of the signature card.]

7/13/93

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H. B. 4241

(By Delegates Gallagher, Douglas, Compton,
Huntwork, Burk and Faircloth
(Introduced January 31, 1994; referred to the
Committee on Banking and Insurance then the
Judiciary)

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 notice and treatment of joint accounts.

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,

4241

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 (m) The legislative rules filed in the state register on the
10 sixteenth day of August, one thousand nine hundred ninety-three,
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 seventeenth day of November, one thousand nine
14 hundred ninety-three, relating to the division of banking (notice
15 and treatment of joint accounts), are authorized.

16

17 NOTE: The purpose of this bill is to authorize the Division
18 of Banking to promulgate legislative rules relating to notice and
19 treatment of joint accounts.

20

21 Strike-throughs indicate language that would be stricken from
22 the present law, and underscoring indicates new language that
23 would be added.

SENATE BILL NO. 156

(By Senators Manchin, Anderson, Grubb, Macnaughtan
and Minard)

[Introduced January 31, 1994; referred to the
Committee on

BANKING AND INSURANCE

Judiciary

A BILL to amend and reenact section two, article three, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the division of banking to promulgate legislative rules relating to notice and treatment of joint accounts.

Be it enacted by the Legislature of West Virginia:

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

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

§64-3-2. Division of banking.

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15 state register on the eleventh day of December, one thousand nine
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1 (i) The legislative rules filed in the state register on the
2 twelfth day of August, one thousand nine hundred ninety-one,
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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
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5 register on the seventeenth day of August, one thousand nine
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15 and treatment of joint accounts), are authorized.

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17 NOTE: The purpose of this bill is to authorize the Division
18 of Banking to promulgate legislative rules relating to notice and
19 treatment of joint accounts.

20

21 Strike-throughs indicate language that would be stricken from
22 the present law, and underscoring indicates new language that
23 would be added.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

March 18, 1994

Tim Winslow
Banking
Bldg. 3, Rm. 311
State Capitol
Charleston, WV 25305

SB 1005 authorizing, **Title 106, Series 17, Legislative Rule Pertaining to Notice & Treatment of Joint Accounts**, passed the Legislature on **March 16, 1994**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs SB 1005, 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 with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 1005** section **64-3-2(n)**. 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 WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, YOU MUST 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



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

TO: Tim Winslow

AGENCY: Commissioner of Banking

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: June 1, 1994

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: 17 TITLE: 106 Commissioner of Banking

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

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

SIGNED: Justly C. Winslow

TITLE OF PERSON SIGNING: General Counsel

DATE: 6/3/94

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