

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia Board of Banking and Financial Institutions

West Virginia Code 31A-3-2(a)
Series V
(1982)

Subject: Procedural rules of the West Virginia Board of Banking
and Financial Institutions.

STATEMENT OF EMERGENCY

Pursuant to West Virginia Code §29A-3-15(a), the West Virginia Board of Banking and Financial Institutions has determined that an emergency exists, as defined in West Virginia Code §29A-3-15(e), requiring the promulgation of this emergency procedural rule, which amends the 1975 Rules of the West Virginia Board of Banking and Financial Institutions. With the enactment of Committee Substitute for Senate Bill 331 on March 13, 1982, and its becoming effective on July 11, 1982, an emergency has arisen that necessitates amending the procedural rule to prevent substantial harm to the public interest. The procedural rule has been amended in such a manner so as to eliminate requirements that were contrary to West Virginia Code §29A-5-1 et seq. and possibly unconstitutional. Furthermore, the procedural rule was amended to allow for a more orderly processing of substantially more bank charter applications, de novo branch bank applications, bank merger applications, and bank holding company applications.

*Obsolete
Valid Aug 3, 1982
for 90 days*

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INDEX

Section 1. General

- 1.01 Scope
- 1.02 Authority
- 1.03 Filing Date
- 1.04 Effective Date

Section 2. Declaratory Rulings

- 2.01 The Permissive Parties
- 2.02 Form of Petition
- 2.03 Briefs
- 2.04 Hearings
- 2.05 Decision
- 2.06 Applicability of Decision
- 2.07 Appeal

Section 3. Contested Case Hearings

- 3.01
- 3.02 Notice of Hearing
- 3.03 Place of Hearing
- 3.04 Hearing Tribunal

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- 3.05 Contested Hearing
- 3.06 Presentation of Evidence
- 3.07 Stipulations
- 3.08 Time Allotted for Presentation
- 3.09 Record
- 3.10 Decision
- 3.11 Finality of Decision
- 3.12 Reapplication
- 3.13 Notices
- 3.14 Orderly Hearings
- 3.15 Disqualification

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Subject: Procedural rules of West Virginia Board of Banking and Financial Institutions.

Section 1. General

1.01. Scope - These regulations shall govern the procedure and practice before this Board with regard to declaratory rulings and contested cases hearings.

1.02. Authority - These rules are issued under authority of West Virginia Code §31A-3-2(a).

1.03. Filing Date - August 2, 1982.

1.04. Effective Date - August 2, 1982.

Section 2. Declaratory Rulings

2.01. The Permissive Parties - Pursuant to West Virginia Code §29A-4-1, any person with a bona fide interest in any state of facts or any rule or statute enforceable by this Board may, by proper petition request a declaratory ruling from this Board upon such matter.

2.02. Form of Petition - The petition shall be typewritten shall concisely state the matters upon which a declaratory ruling is sought shall state why petitioner seeks such ruling, and shall be verified by petitioner authorized agent or attorney. Eight (8) copies of such petition shall be filed with the Commissioner of Banking.

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2.03. Briefs - Petitioner may file a brief and eight (8) copies of such shall be filed with the Commissioner of Banking simultaneously with the filing of the petition.

2.04. Hearings - If petitioner seeks a hearing before the Board, he shall so state in his petition, in which event the Board shall hear petitioner at a time and place to be determined by the Board within ninety days from the date of request, giving petitioner at least ten (10) days written notice of the date, time and place of the hearing.

2.05. Decision - The Board shall render a written ruling upon the matter requested by petitioner within thirty days after a hearing, if such is held, or within sixty days after the filing of a petition, if no hearing is requested.

2.06. Applicability of Decision - Any ruling by the Board shall be binding upon the Board and upon the party requesting the ruling upon the state of facts set forth in the petition, but shall not be binding upon any other person.

2.07. Appeal - A declaratory ruling of the Board shall be subject to review as provided for in West Virginia Code §29A-4-2.

Section 3. Contested Case Hearings

3.01. Any contested case hearing before the Board shall be conducted pursuant to West Virginia Code §29A-5-1 et seq. and West Virginia Code §31A-3-3.

3.02. Notice of Hearing - Notice of the time and place of any hearing shall be given to all parties who may be interested in any hearing as provided by law, except for emergencies as provided by West Virginia Code, §31A-3-3(e).

Hearings may be continued by the Board on its own motion or for good cause shown without further notice.

3.03. Place of Hearing - The Board shall determine the site of any hearing. All hearings shall be open to the public pursuant to West Virginia Code §6-9A-1 et seq. and West Virginia Administrative Regulations, West Virginia Board of Banking and Financial Institutions, Section 6-9A-3, Series VI, 1981.

3.04. Hearing Tribunal - Pursuant to West Virginia Code §29A-5-1(d), any matter requiring a hearing may be heard by the Board or by a Board member designated by the Board to conduct such hearing. In the event a hearing is conducted by a Board member, a transcript of the evidence and all exhibits shall thereafter be made available to the Board members for their consideration in rendering a decision.

3.05. Contested Hearings - When an intervenor has qualified as a party pursuant to the provisions of West Virginia Code §31A-3-3(c), West Virginia Code §31A-8-12(h), West Virginia Code §31A-8A-4(c), or any other applicable provision of law, that party shall be given ample opportunity to be heard.

3.06. Presentation of Evidence - Fifteen (15) days prior to the hearing date, all parties to the hearing shall file with the Commissioner of Banking eight (8) copies of the following items and shall simultaneously supply opposing parties with one copy:

1. The basic petition document and supporting exhibits required by law or by these rules which the party may wish to file in support or furtherance of his petition;

2. A list of all witnesses proposed to be called with the identity of each witness and a concise summary statement of his testimony; and

3. A written statement or brief stating the position of the party and supporting arguments therefor.

At any hearing all items previously filed as hereinabove required shall become a part of the record and shall not require further authentication, but may be traversed by an opposing party. No witness not previously listed shall be heard except for good cause shown. Any member of the Board may introduce into evidence any items or information in his possession and any papers, records, agency staff memoranda and documents in the possession of the agency.

3.07. Stipulations - Fifteen (15) days prior to the hearing date, parties to the hearing shall file with the Commissioner of Banking eight (8) copies of a signed joint stipulation setting forth the following:

1. Issues to be decided;
2. Statement of undisputed facts, including facts to which each witness will testify;
3. Statement of disputed facts, including facts to which each witness will testify; and
4. Exhibits to be introduced, with or without objection.

It shall be within the Board's discretion to waive the signed joint stipulation requirement.

3.08. Time Allotted For Presentation - Each party shall be allotted one hour for presentation of evidence, including both direct and cross-examination, and fifteen minutes for argument, subject to enlargement for good cause shown upon request prior to the hearing.

3.09. Record - A record shall be made of all testimony in a contested case but need not be transcribed unless requested by a party, in which the cost of the transcription shall be borne by such party. If the hearing is

conducted by a Board member, then the record shall be transcribed at Board expense for use by the Board in making its decisions.

3.10. Decision - The Board shall render its decision within thirty (30) days after a contested case is heard and an order reciting findings of fact and conclusions of law in conformity with the decision of the Board shall be entered by the Commissioner of Banking not more than ten (10) days after the decision of the Board is made. All decisions of the Board shall be by majority of the Board members participating in any hearing in person. Decisions made upon a transcript of a hearing conducted by a Board member shall be by a majority of Board members receiving and reviewing such transcript.

3.11. Finality of Decision - After a final decision upon any matter, the Board shall not grant a rehearing upon the same matter but an aggrieved party may have recourse to an appeal pursuant to West Virginia Code §29A-5-4.

3.12. Reapplication - Any party seeking privileges, rights or authority to act from the Board who has been refused by final order of the Board may reapply de novo to the Board after the expiration of six months from the date of the refusal order.

3.13. Notices - All notices required by statute or rule to be served on parties to a contested case hearing shall be sufficient if served upon each party or his attorney of record, if any, in person or by registered or certified mail.

3.14. Orderly Hearings - In all hearings set before the Board, or a Board member, the presiding officer shall maintain order in the hearing room and shall have the authority to exclude or eject from the hearing room any person who engages in improper or disruptive conduct.

3.15. Disqualification - Any Board member may disqualify himself from participating in any hearing or decision and such disqualification and non-participation shall be noted on the record.