



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Financial Institutions Division of TITLE-SERIES: 106-07

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Installation, Operation and Sharing of Customer Bank Communication Terminals and the Utilization of Nonexclusive Access Interchange System

CITE STATUTORY AUTHORITY: W. Va. Code 31A-8-12b(i)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/21/2025 12:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Kathy Lawson

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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

The rule provides a framework for installation, sharing and use of customer bank communication terminals.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

The rule amendments seek to modernize and simplify the rule by eliminating provisions that have not been used and to eliminate commissioner approval of certain contractual relationships.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

No impact

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

No impact

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

No impact

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2025 Increase/Decrease (use "-")	2026 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

The rule amendments will have no impact on the revenues and expenses of state government.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Kathy Lawson -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 106
LEGISLATIVE RULE
~~COMMISSIONER~~ DIVISION OF BANKING FINANCIAL INSTITUTIONS

SERIES 7
LEGISLATIVE RULE PERTAINING TO THE INSTALLATION,
OPERATION AND SHARING OF CUSTOMER BANK COMMUNICATION
TERMINALS AND THE UTILIZATION OF NONEXCLUSIVE ACCESS
INTERCHANGE SYSTEM

§106-7-1. General.

1.1. Scope. -- ~~These regulations~~ This rule establish ~~establishes~~ general rules implementing W. Va. Code §31A-8-12b, which permits the installation, operation and sharing of customer bank communication terminals and the utilization of nonexclusive access interchange systems.

1.2. Authority. -- W. Va. Code §31A-8-12b (f).

1.3. Filing Date. -- ~~April 11, 1983.~~

1.4. Effective Date. -- ~~May 11, 1983.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon August 1, 2031.

§106-7-2. Sharing Customer Bank Communication Terminals.

2.1. Mandatory sharing.

Pursuant to W. Va. Code §31A-8-12b(1), any banking institution, which individually or jointly with one or more other banking institutions or other federally insured financial institutions, installs, operates and engages in banking business from a customer bank communication terminal in a location other than on the premises of its principal office, branch bank, or authorized off-premise facility, shall make such customer bank communication terminal available for use by other banking institutions on a nondiscriminatory basis. The fees and charges required to be paid by any banking institution which utilizes the customer bank communication terminal shall not exceed a pro rata share of the costs, determined in accordance with generally accepted accounting principles, of purchasing or leasing, installing, operating and maintaining the customer bank communication terminal, plus a reasonable rate of return on these costs to the owner or lessee of the customer bank communication terminal.

2.2. Permissive/nondiscriminatory sharing.

Pursuant to W. Va. Code §31A-8-12b(a)(2), any banking institution, which individually or jointly with one or more other banking institutions or other federally insured financial institutions, installs, operates and engages in banking business from a customer bank communication terminal may make such customer bank communication terminal available for use by ~~one~~ other federally insured financial institutions. ~~A banking institution which makes such a customer bank communication terminal available for use by one other federally insured financial institution shall make that customer bank communication terminal available for use by all other federally insured financial institutions~~ on a nondiscriminatory basis. The charges to be paid by other federally insured financial institutions which ~~utilizes~~ utilize the customer bank communication terminal

shall not exceed a pro rata share of the costs, determined in accordance with generally accepted accounting principles, of purchasing or leasing, operating and maintaining the customer bank communication terminal, plus a reasonable return on these costs to the owner of the customer bank communication terminal.

2.3. Written agreement or contract, ~~required to be filed with the Commissioner of Banking.~~

The terms and conditions of a banking institution's or other federally insured financial institution's use of a customer bank communication terminal ~~under~~ pursuant to sections 2.1 or 2.2 of these rules shall be governed by a written agreement or contract between the banking institution which installs, operates and engages in banking business from that customer bank communication terminal and the banking institution or other federally insured financial institution whose customers shall use that customer bank communication terminal. The written agreement or contract shall specify all terms and conditions, and shall include the fees and charges for the use of the customer bank communication terminal. ~~A copy of the written agreement or contract shall be filed with the Commissioner of Banking by the banking institution that installs and operates the customer bank communication terminal.~~

2.4. ~~Hearing before the Commissioner of Banking.~~

~~—Upon the written complaint by a banking institution or federally insured financial institution that it is unreasonably being denied the use of a customer bank communication terminal which has been installed and operated by a banking institution pursuant to subsections 2.1 or 2.2 of these rules, the Commissioner of Banking shall hold a hearing in the manner prescribed in W. Va. Code §31A-8-1. After any such hearing and consideration of all the testimony and evidence on the record, the Commissioner of Banking shall determine whether or not the banking institution or federally insured financial institution has been denied the right to utilize the customer bank communication pursuant to sections 2.1 or 2.2 of these rules. The Commissioner of Banking may issue an order directing the banking institution that installs and operates the customer bank communication terminal to comply with the provisions of this regulation and of W. Va. Code §31A-8-12b(a) and prescribe the manner and means of so complying.~~

§106-7-3. Nonexclusive access interchange system.

3.1. Access interchange system.

Any banking institution, which individually or jointly with one or more other banking institutions or other federally insured financial institutions, installs, operates and engages in banking business from a customer bank communication terminal, whether that customer bank communication terminal, is located on the premises of its principal office, branch bank or authorized off-premise facility or in a location other than on the premises of its principal office, branch bank or authorized off-premise facility, and makes that customer bank communication terminal available for use by another banking institution or other federally insured financial institution, has established an access interchange system for purposes of W. Va. Code §31A-8-12b(a).

3.2. Access interchange systems must be nonexclusive.

Any access interchange system established according to section 3.1 of ~~these rules~~ this rule shall be nonexclusive. Any customer bank communication terminal that communicates with and permits financial transactions to be carried out through an exclusive access interchange system shall be considered to be an illegal branch bank of the banking institution that installs and operates that customer bank communication terminal.

3.3. Written agreement or contract required, ~~to be filed with the Commissioner of Banking.~~

The terms and conditions for establishing any access interchange system shall be governed by a written agreement or contract. The written agreement or contract shall specify all terms and conditions, and shall include the interchange fees or charges and the transaction fees or charges. ~~A copy of the written agreement or contract shall be filed with the Commissioner of Banking by the access interchange system.~~

~~3.4. Hearing before the Commissioner of Banking.~~

~~Upon the written complaint by a banking institution that it is unreasonably being denied utilization of an access interchange system, the Commissioner of Banking shall hold a hearing in the manner prescribed in W. Va. Code §31A-8-1. After any such hearing and consideration of all the testimony and evidence on the record, the Commissioner of Banking shall determine whether or not the banking institution has been denied the right to utilize an access interchange system pursuant to Section 3.2 of these rules. The Commissioner of Banking may issue an order directing the access interchange system to comply with the provisions of this regulation and W. Va. Code §31A-8-12b(a) and prescribe the manner and means of so complying.~~

§106-7-4. Night Depository Box Attached to a Customer Bank Communication Terminal.

For purposes of W. Va. Code §31A-8-12b(c), any night depository box that is attached to a customer bank communication terminal in such a way that a customer electronically communicates with a banking institution is considered to be associated equipment of that customer bank communication terminal, and as such, subject to subsections 2 and 3 of this ~~regulation~~ rule and W. Va. Code §31A-8-12b(a).