

## **WEST VIRGINIA DIVISION OF BANKING PROCESS TO BE FOLLOWED BY BANK CHARTER APPLICANTS**

Applicants are encouraged to contact the Division at the outset to discuss the transaction and obtain information regarding the application process. A public hearing is held by the West Virginia Board of Banking and Financial Institutions. The Board must make a careful examination and investigation of the following six factors as set forth in West Virginia Code §31A-4-6. Therefore, sufficient information shall be provided in the application documents for a determination to be made regarding:

**Public convenience and advantage  
Reasonable promise of success  
Adequate capital structure  
Experience and ability of Officers and Directors  
Non-similarity of name  
Provision for suitable quarters**

\* Phantom Bank Charter applicants comply with step G only.

### **A. To make application for a state bank charter, file the following:**

1. Articles of Incorporation in duplicate **originals**. Prepare according to requirements in West Virginia Code §31A-4-5 with minimum capital stock pursuant to §31A-4-3. If the bank is to be a member of the Federal Reserve System, its capital stock must meet the Federal Reserve minimum as well as the state minimum. These Articles of Incorporation will be filed by the WVDOB with the Secretary of State **after** the West Virginia Board of Banking and Financial Institutions approves the charter.
2. If the bank is to be a member of the Federal Reserve System, contact the Federal Reserve Bank to obtain Federal Reserve form FR 2083. Submit a photo copy of this completed form to WVDOB.
3. Two **originally signed copies of:**
  - Application for Bank Charter (FDIC form 6200/05) which includes personal financial statements on all incorporators, directors, officers and large subscribers; or
  - Application for Phantom Bank Charter (FDIC form 6220/07).
4. Proforma financial statements for first three years of operation; **prepared by a certified public accounting firm, *including operating ratios***, calculated in the same manner as set out in the User's Guide for the Uniform Bank Performance Report (Return on Average Assets, Net Interest Margin, Overhead Expense/Average Assets with detail, Loan Loss Reserve/Total Loans, etc.) This information must be included as a part of the public portion of the application.

All financial projections must be accompanied by detailed explanations for the assumptions made and supported by industry data. The application must be prepared to discuss and justify the basis for all information supplied.

5. Financial statements included in the FDIC applications must have supporting detail for all privately held investments in excess of five hundred thousand dollars. If the individual reflects net worth less than \$1,000,000, please provide supporting detail, including audited financials, on all closely held investments. Additional financial information is likely to be requested by the staff of the West Virginia Division of Banking upon a review of the application. Audited financial statements may be submitted as a "Confidential" exhibit.
  6. Record of organization expense fund.
  7. Affidavit on expenses required by West Virginia Code §31A-4-4.
  8. The proof of publication under FDIC and/or Federal Reserve regulations.
  9. Offering Circular. (Note: the final Offering Circular must be approved by the Commissioner prior to distribution.)
  10. Examination and Investigation Fee of \$5,000. Please make check payable to the West Virginia Division of Banking.
  11. Plans to obtain and or exercise trust powers.
  12. Provide information on each proposed director detailing banking experience, especially if the individual has served as a director, officer or employee of another financial institution. A complete detailed resume on each proposed officer and director must be submitted at time of application. Information regarding names and employment of potential employees may be designated as "Confidential" and included in the confidential portion of the application. Each of the proposed directors and incorporators must also execute the Organizer/Director Release Forms attached authorizing the West Virginia Division of Banking to obtain information.
  13. Other information as may be required by the Division of Banking.
- B. Notification of all applications received is sent at least 30 days prior to hearing date to the banking community and other interested parties on the "official list". Parties which wish to intervene have 10 days from date of receipt of "Official Notification" to file a petition to intervene. A hearing will be scheduled and notice provided not less than 10 days nor more than 30 days prior to hearing. An ORDER will be issued by the West Virginia Board of Banking and Financial Institutions regarding action taken on the application.
- C. Once the charter is approved, it may be recorded with the Secretary of State. Please forward to the Division of Banking a check made payable to the Secretary of State for incorporation fees. The Division of Banking will then forward the check and duplicate originals of the Bank's Articles of Incorporation to the Secretary of State

for processing. The Secretary of State will then issue a Certificate of Incorporation. This Certificate and the Articles of Incorporation must be filed with the county clerk where your principal place of business is located.

- D. Applicant may then proceed to sell stock and commence construction of a bank facility. Stock certificates must be submitted to Commissioner for approval and must be issued to all stockholders prior to opening date.
- E. Before engaging in business, the applicant must apply for a Certificate of Authority from the Commissioner of Banking according to West Virginia Code §31A-2-5. Please submit:
1. A copy of the Certificate of Incorporation as issued by the Secretary of State and the date on which the Certificate was recorded in with the county clerk.
  2. A copy of bylaws and certified extract of minutes of board meeting at which they were adopted.
  3. A statement as to the amount of capital that has been subscribed and paid in. (West Virginia Code §31A-4-3 and §31A-4-4).
  4. Certified copies of bank's financial statements.
  5. A list of directors, by name and address with completed oaths of directors.
  6. List of officers by name, address, title and salary with copy of board minutes evidencing election.
  7. List of stockholders showing name, address, and number of shares owned.
  8. Management Policies, i.e. loan policy, investment policy, funds management policy, audit policy.
  9. Name and addresses of carrier for blanket bond and other basic coverages with amounts of coverage and deductibles.
  10. Projected date at which time facility will be completed and ready for final inspection to check compliance with all security devices required by the Bank protection Act (Federal Reserve Regulation P).
  11. Phone number and ABA Transit Number.
  12. Proof of FDIC insurance.
- F. Notify the WVDOB of the date opened for business after receiving Certificate of Authority.

G. To charter an interim bank:

1. Prepare Articles of Incorporation in accordance with West Virginia Code 31A-4-3 and 31A-4-5. If the phantom is to be a member of the Federal Reserve, the capital stock must meet the Federal Reserve minimum as well as the state minimum.
2. Present the Articles to the Commissioner for his or her approval before attempting to file with the Secretary of State. Present duplicate originals.
3. Submit to the WVDOB two originally signed copies of the application for Phantom Bank merger (FDIC form 6220/07 if nonmember bank or FR2070 if member bank) along with \$500 application fee.
4. If phantom bank is a Federal Reserve member, file two copies of FR2083.
5. Complete FDIC or Federal Reserve publication requirements along with WVDOB Community Reinvestment Act publication requirements. Submit proof to WVDOB.
6. Official notification and hearing notices are issued as described in B.
7. If all regulatory approvals are received and shareholders approve merger, prepare Articles of Merger and submit to Commissioner for approval before attempting to file with the Secretary of State. Present duplicate originals.
8. If the phantom bank survives the merger, submit to WVDOB a list of Directors names and addresses and complete the Oaths of Directors for each Director of the surviving bank, not just the new ones. Forms are mailed to bank with the Board's ORDER.

## NOTES

It is the applicant's responsibility to indicate by marking "Confidential" any part of the application that is to be kept confidential for purposes of the public hearing. Such documents must be physically segregated from the application and **clearly marked**. Failure to comply may result in information becoming publicly available.

All applications to be filed with federal regulatory authorities must be filed concurrently with the application(s) filed with the West Virginia Division of Banking.

Failure to submit accurate, timely materials **will** result in a delay or nonacceptance in the processing of bank charter applications.

Once an application is accepted for processing and the staff investigation commences, the proposed board of directors will be required to meet with the staff on an individual basis to discuss the application and proposed bank.

The staff encourages the applicant to obtain legal representation to assist in the application and chartering process.

**ORGANIZER/DIRECTOR AFFIDAVIT AND RELEASE**

**TO WHOM IT MAY CONCERN:**

*I hereby authorize any representative of the West Virginia Division of Banking bearing this release or transmitting a copy of same to obtain information from you or your files or other sources pertaining to my personal background including, but not limited to, police records, academic or any other records you may have regarding me. I hereby direct you to release such information upon the request of any duly authorized representative of the West Virginia Division of Banking. This release is executed with the full knowledge and understanding that the information is for the official use of the West Virginia Division of Banking. I hereby release you, the institution or establishment which you represent including its officers, employees, and related personnel, both individually and collectively, from any and all liability for damages of whatever kind, which may at any time result to me, my heirs, family or associates because of compliance with this authorization and request to release information, or any attempt to comply with it. Should there be any question as to the validity of this release, you may contact me as indicated below.*

*I understand that my continued involvement in a proposed state bank charter and licensing process is provisional upon me passing a thorough background investigation. I understand that this Release authorizes the West Virginia Division of Banking to provide information obtained to other regulatory agencies in order to complete the investigation of the proposed application. I further understand that any untruthful or misleading information supplied by me may be the basis for denial of participation in the proposed application process and may be grounds for denial of the application in its entirety.*

**FULL NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY, STATE, ZIP:** \_\_\_\_\_

**TELEPHONE:** \_\_\_\_\_

**SOCIAL SECURITY NUMBER:** \_\_\_\_\_

**DATE OF BIRTH:** \_\_\_\_\_

**TODAY'S DATE:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

**NOTARY STATEMENT:**

State of West Virginia, County of \_\_\_\_\_.

Taken, Subscribed and Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**My Commission Expires:**

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**ORGANIZER/DIRECTOR CREDIT HISTORY RELEASE FORM**

**TO WHOM IT MAY CONCERN:**

*I hereby authorize any representative of the West Virginia Division of Banking bearing this release or transmitting a copy of same to obtain information from you or your files or other sources pertaining to my credit history upon the request of any duly authorized representative of the West Virginia Division of Banking. This release is executed with the full knowledge and understanding that the information is for the official use of the West Virginia Division of Banking. I hereby release you, the institution or establishment which you represent including its officers, employees, and related personnel, both individually and collectively, from any and all liability for damages of whatever kind, which may at any time result to me, my heirs, family or associates because of compliance with this authorization and request to release information, or any attempt to comply with it. Should there be any question as to the validity of this release, you may contact me as indicated below.*

*I understand that my continued involvement in a proposed state bank charter and licensing process is provisional upon me passing a thorough background investigation. I understand that this also serves as authorization for the Division of Banking to obtain a record of my personal credit history from a consumer reporting agency or entity of its choice. I also understand that this Release authorizes the West Virginia Division of Banking to provide information obtained to other regulatory agencies in order to complete the investigation of the proposed application. I further understand that any untruthful or misleading information supplied by me may be the basis for denial of participation in the proposed application process and may be grounds for denial of the application in its entirety.*

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Taken, Subscribed and Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**My Commission Expires:**

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