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HOUSE BILL NO. 2251

Offered January 21, 1999

A BILL to amend the Code of Virginia by adding in Chapter 2 of Title 6.1 an article numbered 3.3, consisting of sections numbered 6.1-32.31 through 6.1-32.45, relating to multistate trust institutions.

Patron—Woodrum

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 2 of Title 6.1 an article numbered 3.3, consisting of sections numbered 6.1-32.31 through 6.1-32.45, as follows:

Article 3.3.

Multistate Trust Institutions.

§ 6.1-32.31. Title and purpose.

A. This Article 3.3 consisting of §§ 6.1-32.31 through 6.1-32.45 may be cited as the "Multistate Trust Institutions Act."

B. It is the intent of this article to permit banks and trust companies to engage in the trust business on a multistate basis, in accordance with the provisions set forth in this article.

§ 6.1-32.32. Definitions.

As used in this article, unless the context requires otherwise:

"Acquisition of a trust office" means the acquisition of a trust office located in a host state, without acquiring the trust institution of such office.

"Bank" has the meaning set forth in 12 U.S.C. § 1813 (h).

"Bank supervisory agency" means: (i) any agency of another state with primary responsibility for chartering and supervising a trust institution; and (ii) the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System and any successor to these agencies.

"Charter" means a charter, license or other authority issued by the Commission or a bank supervisory agency authorizing a trust institution to act as a fiduciary in its home state.

"Commission" means the State Corporation Commission of the Commonwealth of Virginia.

"Company" includes a bank, trust company, corporation, limited liability company, partnership, association, business trust, or another trust.

"Home state" means (i) with respect to a federally chartered trust institution, the state in which such institution maintains its principal office and (ii) with respect to any other trust institution, the state which chartered such institution.

"Home state regulator" means the bank supervisory agency with primary responsibility for chartering and supervising an out-of-state trust institution.

"Host state" means a state, other than the home state of a trust institution, in which the trust institution maintains or seeks to acquire or establish an office.

"License" means the authority granted by the Commission pursuant to this article to establish, acquire or maintain a trust office.

"New trust office" means a trust office located in a host state which (i) is originally established by the trust institution as a trust office and (ii) does not become a trust office of the trust institution as a result of (a) the acquisition of another trust institution or trust office of another trust institution or (b) a merger, consolidation, or conversion involving any such trust institution or trust office.

"Office" with respect to a trust institution means the principal office or a trust office, but not a branch.

"Out-of-state bank" means a bank chartered to act as a fiduciary whose home state is a state other than Virginia.

"Out-of-state trust company" means a trust company whose home state is a state other than Virginia.

"Out-of-state trust institution" means a trust institution whose home state is a state other than Virginia.

"Principal office" with respect to (i) a state trust company, means a location so designated by such trust company pursuant to § 6.1-32.21 of the Virginia Trust Company Act or § 6.1-32.2 of the Virginia Trust Subsidiary Act or (ii) a trust institution other than a state trust company, means its principal place of business in the United States.

"State" means any of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands and

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60 *the Northern Mariana Islands.*

61 *"State bank" or "Virginia state bank" means a bank chartered under the laws of Virginia and*
62 *permitted to engage in the trust business pursuant to § 6.1-16 of the Virginia Banking Act.*

63 *"State trust company" means a corporation organized or reorganized under the Virginia Trust*
64 *Subsidiary Act (§ 6.1-32.1 et seq.) or the Virginia Trust Company Act (§ 6.1-32.11 et seq.).*

65 *"State trust institution" means a trust institution having its principal office in this Commonwealth.*

66 *"Trust business" shall have the same meaning assigned to that term in §§ 6.1-32.11 and 6.1-32.12 of*
67 *the Virginia Trust Company Act.*

68 *"Trust company" means a state trust company or any other company chartered to act as a fiduciary*
69 *that is not a bank.*

70 *"Trust institution" means a bank or trust company.*

71 *"Trust office" means an office, other than the principal office, at which a trust institution is licensed*
72 *by the Commission to act as a fiduciary.*

73 *§ 6.1-32.33. Interstate trust offices by Virginia state banks.*

74 *A. With the prior approval of the Commission, any Virginia state bank or state trust company may*
75 *establish a new trust office or acquire a trust office in a state other than Virginia.*

76 *B. A Virginia state bank or state trust company desiring to establish and maintain a trust office in*
77 *another state under this section shall file an application or notice on a form prescribed by the*
78 *Commission and pay the branch application fee set forth in § 6.1-94. If the Commission finds that the*
79 *applicant has the financial resources sufficient to undertake the proposed expansion without adversely*
80 *affecting its soundness and that the laws of the host state permit the establishment of the trust office, it*
81 *may approve the application. In acting on the application, the Commission shall consider the views of*
82 *the state bank supervisor of the host state where the trust office is proposed to be located.*

83 *§ 6.1-32.34. Trust business of out-of-state trust institution.*

84 *An out-of-state institution which establishes or maintains one or more offices in this Commonwealth*
85 *under this article may conduct any activity at each such office which would be authorized under the*
86 *laws of this Commonwealth for a state trust institution to conduct at such an office.*

87 *§ 6.1-32.35. Trust business at a branch or trust office.*

88 *An out-of-state trust institution may engage in a trust business at an office in this state only if it*
89 *maintains (i) a trust office in this Commonwealth as permitted by this article or (ii) a branch in this*
90 *Commonwealth.*

91 *§ 6.1-32.36. Establishing an interstate trust office.*

92 *An out-of-state trust institution that does not already maintain a trust office in this Commonwealth*
93 *and that meets the requirements of this article may establish and maintain a new trust office in this*
94 *Commonwealth.*

95 *§ 6.1-32.37. Acquiring an interstate trust office.*

96 *An out-of-state trust institution that does not already maintain a trust office in this Commonwealth*
97 *and that meets the requirements of this article may acquire and maintain a trust office in this*
98 *Commonwealth.*

99 *§ 6.1-32.38. Filing requirements.*

100 *An out-of-state trust institution desiring to establish and maintain a new trust office or acquire and*
101 *maintain a trust office in this Commonwealth pursuant to this article shall submit to the Commission a*
102 *copy of the application or notice it files with its home state supervisor or the responsible federal agency*
103 *to establish or acquire such office. Such submission shall be made at the same time the application or*
104 *notice is filed by the out-of-state trust institution with such home state supervisor or responsible federal*
105 *agency. The out-of-state trust institution shall also comply with the requirements of Article 17*
106 *(§ 13.1-757 et seq.) of the Virginia Stock Corporation Act and pay any filing fee required by the*
107 *Commission.*

108 *§ 6.1-32.39. Conditions for approval.*

109 *No trust office of an out-of-state trust institution may be acquired or established under this article*
110 *unless:*

111 *1. In the case of a new trust office, the laws of the home state of the out-of-state trust institution*
112 *permit state trust institutions to establish and maintain new trust offices in that state under substantially*
113 *the same terms as set forth in this article.*

114 *2. In the case of a trust office to be established through the acquisition of a trust office, the laws of*
115 *the out-of-state trust institution permit state trust institutions to establish and maintain trust offices in*
116 *that state through the acquisition of trust offices under substantially the same terms as set forth in this*
117 *article.*

118 *§ 6.1-32.40. Examinations; periodic reports; cooperative agreements; assessment of fees.*

119 *A. The Commission may make such examinations of any office established and maintained in this*
120 *Commonwealth pursuant to this article by an out-of-state trust institution as the Commission may deem*
121 *necessary to determine whether the office is operating in compliance with the laws of this*

Commonwealth and to ensure the office is being operated in a safe and sound manner. The provisions of § 6.1-87 shall apply to such examinations.

B. The Commission may require periodic reports from any out-of-state trust institution that maintains an office in Virginia to the extent such reporting requirements (i) apply equally to similarly situated trust institutions having Virginia as their home state and (ii) are not preempted by federal laws. Such reports shall be filed under oath with such frequency and in such scope and detail as may be appropriate for the purpose of assuring continuing compliance with the provisions of this article.

C. The Commission may enter into cooperative agreements with the appropriate state banks' supervisors and federal bank regulatory agencies for the examination of any trust office in this Commonwealth of an out-of-state trust institution or any office of a state trust institution in any host state, and may accept such agency's report of examination and report of investigation in lieu of conducting its own examinations or investigations. The Commission may enter into joint actions with other state bank supervisors and federal banking agencies having concurrent jurisdiction over any office maintained in this state by an out-of-state trust institution or any office established and maintained by a state trust institution in any host state; provided, ~~or~~ that it may take such actions independently to carry out its responsibilities under this article and assure compliance with the laws of this Commonwealth.

D. Out-of-state trust institutions may be assessed and, if assessed, shall pay supervisory and examination fees in accordance with the laws of this Commonwealth and regulations of the Commission. Such fees may be shared with other state and federal regulations in accordance with agreements between them and the Commission.

§ 6.1-32.41. Enforcement.

If the Commission determines that there is any violation of Virginia law in the operation of a trust office of an out-of-state trust institution or that such office is being operated in an unsafe and unsound manner, the Commission shall have authority to undertake such enforcement actions as it would be permitted to take if the office were a Virginia state bank or state trust company.

§ 6.1-32.42. Additional trust offices.

An out-of-state trust institution that maintains a trust office in this Commonwealth under this article may establish or acquire additional trust offices in this Commonwealth to the same extent that a state institution may establish or acquire additional offices in this Commonwealth pursuant to the procedures for establishing or acquiring such offices set forth in this article.

§ 6.1-32.43. Regulations; certain fees.

The Commission may promulgate such regulations, and may provide for the payment of such reasonable application and administration fees, as it finds necessary and appropriate in order to implement the provisions of this article.

§ 6.1-32.44. Notice of subsequent merger, closing, etc.

An out-of-state trust institution that maintains an office in Virginia under this article shall give at least 30 days' prior written notice (or in the case of an emergency transaction, such shorter notice as is consistent with applicable state or federal law) to the Commission of any merger, consolidation, or other transaction involving the trust institution which would cause the Virginia trust office to be maintained by another trust institution.

§ 6.1-32.45. Severability.

If any provision of this article is held to be invalid for any reason by a final order of any Virginia or federal court of competent jurisdiction, or to be superseded by federal law, the remaining provisions of this article shall not be affected and shall continue to apply.