

Important Information Regarding Your Filing
Restricted Use of the Word 'Bank,' 'Banker,' 'Banking,' or 'Trust Company' in Business Name

Due to the fact that §31D-4-401 of the Business Corporation Act and §31B-1-105 of the Uniform Limited Liability Company Act does not contain any restrictions as to the use of the word or form of the word "bank" when used in a business entity name, our office will proceed with the processing of your application.

However, please note that the West Virginia Division of Banking does have certain restrictions surrounding the use of the word or form of the word "bank" when used as part of a business name. You may want to review the following code sections as well as contacting their agency for more information on this subject matter, in order to assure that your organization is in compliance with the State of West Virginia.

§31A-4-2. Use of terms; unlawfully engaging in banking business; penalties; enforcement.

(a) No person doing business in this state, **except a banking institution**, a person authorized by the commissioner under the terms of this section or an insurer licensed pursuant to ... this code under a name including the terms set forth herein as of the thirty-first day of December 31, 2003, **may use or advertise in connection with such business, or as a designation or title thereof, the term "bank", "banker", "banking", "banking company", "industrial bank", "savings bank" or "trust company"** and the insurance commissioner shall notify the commissioner of each insurer so licensed. Notwithstanding the foregoing restriction, **the term "banker" may be used in (1) the legal name of a real estate franchisor; and (2) the tradename of a real estate brokerage firm who is a current or future franchisee of a real estate franchise system, if in either case the use of the term "banker" stems from a family surname belonging to a principal or former principal of the firm, whether or not such principal or former principal is currently living.** No person doing business in this state except a banking institution or a person authorized by the commissioner under this article may engage in the banking or trust business in this state. A nonbanking subsidiary of a bank holding company or a nonbanking subsidiary of a banking institution having a bank branch or bank main office in this state that provides trust services pursuant to section fourteen of this article may use the term "trust company" in its title and advertising. A trust entity owned jointly by federally insured depository institutions located within this state and authorized by the commissioner to operate in this state may use the term "trust company" in its title and advertising.

(b) It is unlawful for any such person other than banking institutions, as herein excepted, to advertise or hold himself, itself or themselves, as the case may be, out to the public in any manner indicating, directly, indirectly or by implication, that any of them is engaged in the banking or trust business or is authorized and approved to engage therein in this state.

(c) The commissioner may authorize a person to use the term "bank," or "banc" in connection with nonprofit organizations or medical businesses where the term would have a common meaning separate and apart from a financial institution and would not result in confusion to the public (e.g., food bank; medical databank); and in connection with bank holding companies or their nonbanking affiliates where the term denotes the entities' common affiliation and would not result in confusion to the public....

(e) The commissioner of banking or any one or more banking institutions, acting individually or jointly, may petition the circuit court of the county in which any violation of the provisions of this section occur or are threatened to occur for injunction or other appropriate judicial remedies for enforcement of the provisions hereof and the prevention of further or continued violations thereof.

Please check one of the following and either fax to 304-558-8381, email to business@wvsos.gov, or mail to the WV Secretary of State's Office.

- ☐ I have read and understand the above, and YES, I want to the Secretary of State to proceed with processing my application. Authorized by (applicant signature): _____
- ☐ I have read and understand the above and DO NOT want the Secretary of State's Office to process my application. Authorized by (applicant signature): _____