WEST VIRGINIA CODE CHAPTER 46A ARTICLE 8

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§46A-8-101. Time of becoming operative; provisions for transition; enforceability of prior transactions; applicability and effective dates of amendments.

NOTE: West Virginia Code §46A-8-101 was amended by two bills passed during the 2021 Regular Session of the Legislature. When two acts of the Legislature amend the same section of the Code without express recognition in the bill of the action of the other bill, the Legislative Manager makes no determination as to the appropriate, legal effect of the two acts. Therefore, BOTH versions of this section are set out below.

The later of the two acts, Senate Bill 401 (passed on April 6, 2021), amended West Virginia Code §46A-8-101 to read as follows:

(a) Except as otherwise provided in this section, this chapter shall become operative at 12:01 a.m. on September 1, 1974.

(b) Notwithstanding the provisions of subsection (a) of this section, in order to allow sufficient time to prepare for the implementation and operation of this chapter and to act on applications for licenses to make regulated consumer loans under this chapter as amended, the provisions of §46A-4-1 *et seq*. of this code relating to regulated consumer lenders, and the provisions of §46A-7-1 *et seq*. of this code relating to their administration, shall, to the extent necessary, become operative for such purposes at 12:01 a.m. on September 1, 1996.

(c) Transactions entered into before this chapter becomes operative and the rights, duties, and interests flowing from them thereafter may be terminated, completed, consummated, or enforced as required or permitted by any statute, rule of law, or other law amended, repealed, or modified by this chapter as though the repeal, amendment, or modification had not occurred, but this chapter applies to:

(1) Refinancings and consolidations made after this chapter becomes operative of consumer credit sales, consumer leases, and consumer loans whenever made;

(2) Consumer credit sales or consumer loans made after this chapter becomes operative pursuant to revolving charge accounts or revolving loan accounts entered into, arranged, or contracted for before this chapter becomes operative; and

(3) All consumer credit transactions made before this chapter becomes operative insofar as this chapter limits the remedies of creditors.

(d) *Applicability.* —

(1) The amendments made during the regular session of the Legislature, 2017, to §46A-2-105 of this code shall apply to consumer credit sales or consumer loans entered into on after the effective date of those amendments. The amendments made during the regular session of the Legislature, 2017, to §46A-2-128 and §46A-2-140 of this code, shall apply to all causes of accruing on or after the effective date of those amendments. The amendments made during the regular session of the Legislature, 2017, to §46A-2-122 and §46A-5-108 of this code shall apply to all causes of action filed on or after the effective date of those amendments.

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(2) The amendments made during the regular session of the Legislature, 2021, to §46A-5-104, §46A-5-108, §46A-5-109, §46A-6-105, and §46A-6-106 of this code shall apply to all causes of action filed on or after the effective date of those amendments.

The earlier act, Senate Bill 5 (passed on March 18, 2021) amended West Virginia Code §46A-8-101 to read as follows:

(a) Except as otherwise provided in this section, this chapter became operative at 12:01 a.m. on September 1, 1974.

(b) Notwithstanding the provisions of subsection (a) of this section, in order to allow sufficient time to prepare for the implementation and operation of this chapter and to act on applications for licenses to make regulated consumer loans under this chapter, as amended, the provisions of §46A-4-1 *et seq*. of this code relating to regulated consumer lenders, and the provisions of §46A-7-4 of this code relating to their administration, shall, to the extent necessary, became operative for such purposes at 12:01 a.m. on September 1, 1996.

(c) Transactions entered into before this chapter becomes operative and the rights, duties, and interests flowing from them thereafter may be terminated, completed, consummated, or enforced as required or permitted by any statute, rule of law, or other law amended, repealed, or modified by this chapter as though the repeal, amendment, or modification had not occurred, but this chapter applies to:

(1) Refinancings and consolidations made after this chapter becomes operative of consumer credit sales, consumer leases, and consumer loans whenever made;

(2) Consumer credit sales or consumer loans made after this chapter becomes operative pursuant to revolving charge accounts or revolving loan accounts entered into, arranged, or contracted for before this chapter becomes operative; and

(3) All consumer credit transactions made before this chapter becomes operative insofar as this chapter limits the remedies of creditors.

(d) *Applicability.* —

(1) The amendments made during the regular session of the Legislature, 2017, to §46A-2-105 of this code shall apply to consumer credit sales or consumer loans entered into on after the effective date of those amendments. The amendments made during the regular session of the Legislature, 2017, to §46A-2-128 and §46A-2-140 of this code, shall apply to all causes of accruing on or after the effective date of those amendments. The amendments made during the regular session of the Legislature, 2017, to §46A-2-122 and §46A-5-108 of this code shall apply to all causes of action filed on or after the effective date of those amendments.

(2) The amendments made during the regular session of the Legislature, 2021, to §46A-5-104, §46A-5-108, §46A-5-109, and §46A-6-106 of this code shall apply to all causes of

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action filed on or after the effective date of those amendments.

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§46A-8-102. Severability.

If, for any reason, any article, section, sentence, clause, phrase or provision of this chapter or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other articles, sections, sentences, clauses, phrases or provisions or their application to any other person or circumstance, and to this end each and every article, section, sentence, clause, phrase or provision of this chapter is hereby declared to be severable.

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