WEST VIRGINIA CODE: §46a-4-107

§46A-4-107. Loan finance charge for regulated consumer lenders.

(1) With respect to a regulated consumer loan, including a revolving loan account, a regulated consumer lender may contract for and receive a loan finance charge not exceeding that permitted by this section.

(2) On a loan of $3,500 or less which is unsecured by real property, the loan finance charge, calculated according to the actuarial method, may not exceed 31 percent per year on the unpaid balance of the principal amount.

(3) On a loan greater than $3,500 but less than or equal to $15,000, or which is secured by real property, the loan finance charge, calculated according to the actuarial method, may not exceed 27 percent per year on the unpaid balance of the principal amount: Provided, That the loan finance charge on any loan greater than $15,000 may not exceed 18 percent per year on the unpaid balance of the principal amount. Loans made by regulated consumer lenders shall be subject to the restrictions and supervision set forth in this article irrespective of their rate of finance charges.

(4) Where the loan is nonrevolving and is greater than $3,500, the permitted finance charge may include a charge of not more than a total of two percent of the amount financed for any origination fee, points, or investigation fee: Provided, That where any loan, revolving or nonrevolving, is secured by real estate, the permitted finance charge may include a charge of not more than a total of five percent of the amount financed for any origination fee, points, or investigation fee. In any loan secured by real estate, the charges may not be imposed again by the same or affiliated lender in any refinancing of that loan made within 24 months thereof, unless these earlier charges have been rebated by payment or credit to the consumer under the actuarial method or the total of the earlier and proposed charges does not exceed five percent of the amount financed. Charges permitted under this subsection shall be included in the calculation of the loan finance charge. The financing of the charges is permissible and does not constitute charging interest on interest. In a revolving home equity loan, the amount of the credit line extended is, for purposes of this subsection, the amount financed. Other than herein provided, no points, origination fee, investigation fee, or other similar prepaid finance charges attributable to the lender or its affiliates may be levied. Except as provided for by §46A-3-109 of this code, no additional charges may be made; nor may any charge permitted by this section be assessed unless the loan is made. To the extent that this section overrides the preemption on limiting points and other charges on first lien residential mortgages contained in Section 501 of the United States Depository Institutions Deregulation and Monetary Control Act of 1980, the state law limitations contained in this section shall apply. If the loan is precomputed:

(a) The loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and

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(b) The effect of prepayment, refinancing, or consolidation is governed by the provisions on rebate upon prepayment, refinancing, or consolidation contained in §46A-3-111 of this code.

(5) For the purposes of this section, the term of a loan commences on the date the loan is made. Differences in the lengths of months are disregarded and a day may be counted as one thirtieth of a month. Subject to classifications and differentiations the licensee may reasonably establish, a part of a month in excess of 15 days may be treated as a full month if periods of 15 days or less are disregarded and if that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(6) With respect to a revolving loan account:

(a) A charge may be made by a regulated consumer lender in each monthly billing cycle which is one-twelfth of the maximum annual rates permitted by this section computed on an amount not exceeding the greatest of:

(i) The average daily balance of the debt; or

(ii) The balance of the debt at the beginning of the first day of the billing cycle, less all payments on and credits to such debt during such billing cycle and excluding all additional borrowings during the billing cycle.

For the purpose of this subdivision, a billing cycle is monthly if the billing statement dates are on the same day each month or do not vary by more than four days therefrom.

(b) If the billing cycle is not monthly, the maximum loan finance charge which may be made by a regulated consumer lender is that percentage which bears the same relation to an applicable monthly percentage as the number of days in the billing cycle bears to 30.

(c) Notwithstanding subdivisions (a) and (b) of this subsection, if there is an unpaid balance on the date as of which the loan finance charge is applied, the licensee may contract for and receive a charge not exceeding 50 cents if the billing cycle is monthly or longer or the pro rata part of 50 cents which bears the same relation to 50 cents as the number of days in the billing cycle bears to 30 if the billing cycle is shorter than monthly, but no charge may be made pursuant to this subdivision if the lender has made an annual charge for the same period as permitted by the provisions on additional charges.

(7) As an alternative to the loan finance charges allowed by subsections (2) and (4) of this section, a regulated consumer lender may on a loan not secured by real estate of $3,500 or less contract for and receive interest at a rate of up to 31 percent per year on the unpaid balance of the principal amount, together with a nonrefundable loan processing fee of not more than two percent of the amount financed: Provided, That no other finance charges are imposed on the loan. The processing fee permitted under this subsection shall be included in the calculation of the loan finance charge and the financing of the fee shall be permissible and may not constitute charging interest on interest.

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(8) Notwithstanding any contrary provision in this section, a licensed regulated consumer lender who is the assignee of a nonrevolving consumer loan unsecured by real property located in this state, which loan contract was applied for by the consumer when he or she was in another state, and which was executed and had its proceeds distributed in that other state, may collect, receive, and enforce the loan finance charge and other charges, including late fees, provided in the contract under the laws of the state where executed: Provided, That the consumer was not induced by the assignee or its in-state affiliates to apply and obtain the loan from an out-of-state source affiliated with the assignee in an effort to evade the consumer protections afforded by this chapter. Such charges may not be considered to be usurious or in violation of the provisions of this chapter or any other provisions of this code.

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