

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1963

**ENROLLED**

SENATE BILL NO. 26

(By Mr. Cannigana & Mr. Smith)

PASSED March 2 ..... 1963

In Effect 90 days from ..... Passage



Filed in Office of the Secretary of State  
of West Virginia 3-9-63  
JOE F. BURDETT  
SECRETARY OF STATE

**ENROLLED**

**Senate Bill No. 86**

(By MR. CARRIGAN and MR. SMITH)

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[Passed March 2, 1963; in effect 90 days from passage.]

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AN ACT to amend and reenact sections one, twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, article seven-a, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to small loan companies.

*Be it enacted by the Legislature of West Virginia:*

That sections one, twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, article seven-a, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

**Section 1. When License Necessary to Make Loans at  
2 Greater Rate Than Six Per Cent.**—No person, copartner-  
3 ship, association or corporation shall engage in the busi-

4 ness of making loans of money, credit, goods, or things in  
5 action in the amount or of the value of eight hundred dol-  
6 lars or less and charge, contract for, or receive on any  
7 such loan a greater rate of interest, discount, or considera-  
8 tion therefor than six per cent per annum except as au-  
9 thorized by this article and without first obtaining a li-  
10 cense from the commissioner of banking of the state of  
11 West Virginia, hereinafter called the commissioner.

**Sec. 12. Advertising by Licensee; Liens on Realty as  
2 Security; Where Business Conducted; Confession of Judg-  
3 ment; What Notes, etc. to Contain.**—No licensee or other  
4 person, copartnership, association, or corporation shall  
5 advertise, print, display, publish, distribute, or broadcast  
6 or cause or permit to be advertised, printed, displayed,  
7 published, distributed or broadcasted, in any manner  
8 whatsoever any statement or representation with regard  
9 to the rates, terms, or conditions for the loaning of mon-  
10 ey, credit, goods, or things in action in the amount or of  
11 the value of eight hundred dollars or less, which is false,  
12 misleading, or deceptive.

13 The commissioner may order any licensee to desist

14 from any conduct which he shall find to be a violation of  
15 the foregoing provisions.

16 No licensee shall take a lien upon real estate as security  
17 for any loan under the provisions of this article, except  
18 such lien as is created by law upon the recording of a  
19 judgment.

20 No licensee shall conduct the business of making loans  
21 under the provisions of this article within any office, room,  
22 or place of business in which any other business is so-  
23 licited or engaged in, or in association or conjunction  
24 therewith, except as may be authorized in writing by the  
25 commissioner upon his finding that the character of such  
26 other business is such that the granting of such authority  
27 would not facilitate evasions of this article or of the rules  
28 and regulations lawfully made hereunder, except nothing  
29 herein shall prohibit the licensee from purchasing install-  
30 ment sales contracts.

31 No licensee shall transact such business or make any  
32 loan provided for by this article under any other name or  
33 at any other place of business than that named in the  
34 license.

35 No licensee shall take any confession of judgment or  
36 any power of attorney. No licensee shall take any note,  
37 promise to pay, or security that does not accurately dis-  
38 close the actual amount of the loan, the time for which  
39 it is made, and the agreed rate of interest or charge, nor  
40 any instrument in which blanks are left to be filled in  
41 after execution.

42 It shall be unlawful for any licensee to renegotiate the  
43 original loan, or any part thereof, or make a new contract  
44 covering the original loan, or any part thereof, or make a  
45 new contract covering the original loan, or any part there-  
46 of, or make a new contract covering the original loan, or  
47 any part thereof, with any borrower, who has received a  
48 discharge in bankruptcy of the original loan or any bal-  
49 ance due thereon at the time of said discharge from any  
50 court of the United States of America exercising juris-  
51 diction in insolvency and bankruptcy matters, unless said  
52 licensee shall pay to and deliver to the borrower the full  
53 amount of the loan shown on said note, promise to pay,  
54 or security, less any deduction for charges herein spe-  
55 cifically authorized. Any violation hereof shall be grounds

56 for suspension or revocation of the license of the licensee  
57 by the commissioner of banking.

**Sec. 13. Interest; Other Charges Prohibited.—**Division

2 A. Every licensee hereunder may loan any sum of money  
3 not exceeding eight hundred dollars in amount and may  
4 charge, contract for, and receive thereon interest at a rate  
5 not exceeding three per centum per month on the first  
6 two hundred dollars of any loan, or the remaining bal-  
7 ance thereof, two per centum per month on the excess of  
8 two hundred dollars to six hundred dollars of any loan,  
9 or the remaining balance thereof, and one and one-half  
10 per centum per month on the excess of six hundred dol-  
11 lars to eight hundred dollars of any loan or the remaining  
12 balance thereof.

13 No amount whatsoever shall be paid, deducted, or re-  
14 ceived in advance. Interest shall not be compounded and  
15 shall be computed only on unpaid principal balances.

16 In addition to the interest herein provided for no fur-  
17 ther or other charge or amount whatsoever for any exam-  
18 ination, service, brokerage, commission, expense, fee, or  
19 bonus or other thing or otherwise, except credit life in-

20 surance premiums as hereinafter provided for in section  
21 sixteen of this article, shall be directly or indirectly  
22 charged, contracted for, or received. If any interest, con-  
23 sideration or charges, in excess of those permitted by this  
24 article are charged, contracted for, or received, the con-  
25 tract of loan shall be void and the licensee shall have no  
26 right to collect or receive any principal, interest, or  
27 charges whatsoever.

28 Division B. In lieu of computing and collecting interest  
29 as provided in division A of this section, a licensee may  
30 contract for and receive charges, on any loan not exceed-  
31 ing eight hundred dollars, exclusive of such charges,  
32 under a contract which requires the combined total of the  
33 original principal amount of the loan and the charges for  
34 payment according to schedule to be paid in substantially  
35 equal successive monthly installments as follows:

36 (1) The loan charges may be computed, when the loan  
37 is made, on the original principal amount of the loan (ex-  
38 cluding the charges) for the full term of the contract with-  
39 out regard to the requirement for installment payments,  
40 at rates not exceeding the equivalent of nineteen dollars

41 per one hundred dollars per year for that part of any orig-  
42 inal principal amount not exceeding two hundred dollars;  
43 sixteen dollars per one hundred dollars per year for that  
44 part of the original principal amount exceeding two hun-  
45 dred dollars, but not exceeding six hundred dollars, and  
46 twelve dollars per one hundred dollars per year for that  
47 part of the original principal amount exceeding six hun-  
48 dred dollars but not exceeding eight hundred dollars.  
49 Such charges shall be added to the cash advanced and the  
50 resulting sum shall be the amount of the loan obligation.

51 (2) For the purpose of computations under this section,  
52 whether at the maximum rate or less, a month shall be  
53 that period of time from any date in a month to the cor-  
54 responding date in the next month and if there is no such  
55 corresponding date, then to the last day of such month  
56 and a day shall be considered one-thirtieth of a month  
57 when such computation is made for a fraction of a month.  
58 The portion of the charges attributable to any particular  
59 monthly installment period, as originally scheduled or  
60 following a deferment, shall bear the same ratio to the  
61 total charges, excluding any adjustment made pursuant

62 to subsection (3) hereof, as the balance scheduled to be  
63 outstanding during that monthly period bears to the sum  
64 of all monthly balances scheduled originally by the con-  
65 tract of loan.

66 (3) A licensee and borrower may agree that the first  
67 installment date may exceed one month by as much as  
68 fifteen days and the charge for each day exceeding one  
69 month shall be one-thirtieth of the charge which would  
70 be earned for the first installment period of one month.  
71 The charge for extra days in the first installment period  
72 may be added to the first installment.

73 (4) If one-half or more of any installment remains un-  
74 paid more than ten consecutive days (including Sundays  
75 and holidays) after it is due, the licensee may charge and  
76 collect a default charge not exceeding two cents for  
77 each one dollar of the scheduled installment. Such de-  
78 fault charge shall not be charged more than once on a de-  
79 linquent installment and may be collected when due or  
80 at any time thereafter. In no event shall both a default  
81 charge and a deferment charge be levied or collected on  
82 any one installment.

83 (5) If the payment of all wholly unpaid installments  
84 on which no default charge has been collected is deferred  
85 one or more full months, the licensee may charge and  
86 collect a deferment charge not exceeding two cents for  
87 each one dollar of the sum of the installment so deferred,  
88 multiplied by the number of months the maturity of the  
89 contract is extended: *Provided*, That such number of  
90 months shall not exceed the number of installments which  
91 are due and wholly unpaid or are to become due within  
92 fifteen days from the date of deferment. The deferment  
93 charge may be collected at the time of deferment or at  
94 any time thereafter. Any payment received at the time  
95 of deferment may be applied first to the deferment charge  
96 and the remainder, if any, applied to the unpaid balance  
97 of the contract: *Provided, however*, That if such payment  
98 is sufficient to pay, in addition to the appropriate defer-  
99 ment charge, any installment which is in default and the  
100 applicable default charge, it shall be first so applied and  
101 any such installment shall not be deferred or subject to  
102 deferment charge.

103 (6) If the contract of loan is prepaid in full by cash, a

104 new loan or otherwise, after the first scheduled install-  
105 ment payment date, the unearned portion of the charge  
106 for payment according to schedule, less any unpaid de-  
107 fault or deferment charges, shall be rebated. No rebate  
108 shall be required for any partial prepayment. If judg-  
109 ment is obtained before the final installment payment  
110 date, the contract balance and the amount for which judg-  
111 ment can be entered shall be reduced by the amount of  
112 the rebate which would be required for prepayment in  
113 full as of the date judgment is obtained.

114 (7) If two or more full installments are in default for  
115 one full month or more at any installment date and if the  
116 contract so provides, the licensee may reduce the con-  
117 tract balance by the rebate which would be required for  
118 prepayment in full on such installment date. Thereafter,  
119 in lieu of charging, collecting or receiving charges as pro-  
120 vided in subsections (1) to (6) inclusive, of this division  
121 B, charges may be charged, collected and received as pro-  
122 vided by division A, section 13, until the contract is fully  
123 paid.

124 (8) If part or all of the consideration for a contract of

125 loan is the unpaid principal balance of a prior loan with  
126 the same licensee, then the principal amount payable un-  
127 der such new contract of loan shall not include any un-  
128 paid charges on the prior loan except such charges which  
129 have accrued within sixty days before the making of such  
130 new contract of loan and may include the balance remain-  
131 ing after giving the rebate required by subsection (6)  
132 hereof.

**Sec. 14. Duties of Licensee to Borrower.**—Every li-  
2 censee shall: Deliver to the borrower at the time any  
3 loan is made a statement upon which there shall be print-  
4 ed in the English language a copy of division A, section  
5 thirteen, of this article, if the loan is made under said  
6 division A, or a statement upon which there shall be  
7 printed in the English language a copy of division B, sec-  
8 tion thirteen, of this article, if the loan is made under said  
9 division B, and such statement shall show in clear and  
10 distinct terms the amount and date of the loan and of its  
11 maturity, the nature of the security, if any, for the loan,  
12 the name and address of the borrower and of the licensee,  
13 the agreed rate of interest or charges with the amount

14 thereof and a notice, if applicable, that default and defer-  
15 ment charges may be made and the amount thereof;

16 Give to the borrower a receipt for all payments made  
17 in cash on account of any such loan at the time such pay-  
18 ments are made;

19 Permit payment to be made in advance in any amount  
20 equal to one or more full installments on any contract of  
21 loan at any time during the regular business hours of the  
22 licensee, but the licensee may apply such payment first  
23 to accrued charges and interest in full at the agreed rate  
24 up to the date of such payment;

25 Upon repayment of the loan in full, mark indelibly  
26 every obligation and security signed by the borrower with  
27 the word "paid" or "cancelled", and release any mortgage,  
28 restore any pledge, and cancel and return any note given  
29 to the licensee by the borrower.

**Sec. 15. Interest When Loan is in Excess of Eight Hun-**  
2 **dred Dollars.**—No licensee shall directly or indirectly  
3 charge, contract for, or receive any interest, discount, or  
4 consideration greater than six per cent per annum upon  
5 the loan, use, or forbearance of money, goods, or things

6 in action, or upon the loan, use, or sale of credit, of the  
7 amount or value of more than eight hundred dollars. The  
8 foregoing prohibition shall also apply to any licensee who  
9 permits any person, as borrower or as endorser, guaran-  
10 tor, or surety for any borrower, or otherwise, to owe di-  
11 rectly or contingently, or both, to the licensee at any time  
12 the sum of more than eight hundred dollars for principal.

**Sec. 16. Credit Life Insurance.**—Notwithstanding any  
2 other provision of law, a licensee may request but shall  
3 not require as security for a loan made pursuant to this  
4 article insurance on the life of the borrower, or one of  
5 them if there are two or more. The initial amount of such  
6 insurance shall not exceed the total amount repayable un-  
7 der the contract of loan and where the loan is repayable  
8 in substantially equal installments the amount of insur-  
9 ance shall at no time exceed the scheduled or actual  
10 amount unpaid of the total amount payable by the bor-  
11 rower to a licensee in accordance with the loan contract,  
12 whichever is greater. The term of such insurance shall  
13 not extend more than fifteen days beyond the scheduled  
14 maturity date of the indebtedness. The premium or identi-

15 fiable charge for such insurance may be deducted from the  
16 proceeds of any loan or may be included as part of the  
17 principal. Such premium or identifiable charge shall not  
18 be in excess of that filed by the insurance company with  
19 the insurance commissioner. Any gain or benefit to the  
20 licensee, directly or indirectly, from such insurance or the  
21 sale or provision thereof shall not be deemed a violation  
22 of any section of this article. No licensee shall require the  
23 purchasing of such insurance as a condition precedent to  
24 the making of a loan, and if the borrower elects to pur-  
25 chase insurance the licensee shall not require the pur-  
26 chasing of such insurance through a particular agent or  
27 broker or from a particular insurance company.

**Sec. 17. Assignment of Wages Prohibited; When Lien**

2 **on Household Furniture not Valid.**—No licensee shall take  
3 any assignment of, or order for payment of, any salary,  
4 wages, commissions, or other compensation for services,  
5 earned or to be earned, to secure any loan made by any  
6 licensee under this article.

7 No chattel mortgage, trust deed or other lien on house-  
8 hold furniture then in the possession and use of the bor-

9 rower, shall be valid unless it be in writing, signed in  
10 person by the borrower, and if the borrower is married  
11 unless it is signed in person by both husband and wife:  
12 *Provided*, That the signature of both husband and wife  
13 shall not be required when they have been living separate  
14 and apart for a period of at least five months prior to the  
15 making of such chattel mortgage, deed of trust or other  
16 lien.

**Sec. 18. Interest on Loans of Less Than Eight Hundred**  
2 **Dollars.**—No person, copartnership, association, or cor-  
3 poration, except as authorized by this article, shall di-  
4 rectly or indirectly charge, contract for, or receive any  
5 interest, discount, or consideration greater than six per  
6 cent per annum upon the loan, use, or forbearance of  
7 money, goods, or things in action, or upon the loan, use,  
8 or sale of credit of the amount or value of eight hundred  
9 dollars or less.

10 The foregoing prohibition shall apply to any person,  
11 copartnership, association, or corporation who or which,  
12 by any device, subterfuge, or pretense whatsoever shall  
13 charge, contract for, or receive greater interest, considera-

14 tion, or charges than is authorized by this act for any  
15 such loan, use, or forbearance of money, goods, or things  
16 in action or for any such loan, use, or sale of credit.

17 No loan of the amount or value of eight hundred dollars  
18 or less for which a greater rate of interest, consideration,  
19 or charges than is permitted by this article has been  
20 charged, contracted for, or received, wherever made, shall  
21 be enforced in this state and every person in anywise  
22 participating therein in this state shall be subject to the  
23 provisions of this article.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Roy Parker*  
Chairman Senate Committee

*Chas L Coadwell*  
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

*Howard Meyer*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*Howard W. Carson*  
President of the Senate

*Julius W. Singleton Jr.*  
Speaker House of Delegates

The within approved this the 8<sup>th</sup>  
day of March, 1963.

*TTTBannon*  
Governor



Presented to the Governor Mar 7, 1963