WEST VIRGINIA LEGISLATURE
SECOND EXTRAORDINARY SESSION, 1974

ENROLLED
COMMITTEE SUBSTITUTE
SENATE BILL NO. 18

(By Mr. HUBBARD)

PASSED JUNE 25, 1974

In Effect FROM Passage

FILED IN THE OFFICE
EDGAR F. NEISKELL III
SECRETARY OF STATE
THIS DATE 7-3-74
AN ACT to amend and reenact section five, article six, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the legal rate of interest; specifying a minimum charge for the loan or forbearance of money or other thing; relating to the authorization of a higher interest rate by contract in writing; prescribing an alternative contract rate of interest for a loan of money for certain residential real estate purposes, subject to certain restrictions, conditions and limitations; defining the term “points”; and directing the commissioner of banking to require banking institutions, savings and loan associations and other financial institutions to file certain quarterly reports with respect to loans of money for certain residential real estate purposes.

Be it enacted by the Legislature of West Virginia:

That section five, article six, 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:

ARTICLE 6. MONEY AND INTEREST.

§47-6-5. Legal rate of interest; agreements in writing fixing rate of interest; agreements in writing fixing rate of interest for residential real estate purposes; providing there may be no penalty upon prepayment; quarterly reports required.

(a) Except in cases where it is otherwise specially provided by law, legal interest shall continue to be at the
rate of six dollars upon one hundred dollars for a year, and proportionately for a greater or less sum, or for a longer or shorter time, and no person upon any contract other than a contract in writing shall take for the loan or forbearance of money, or other thing, above the value of such rate: Provided, That a charge of one dollar may be made for any loan or forbearance of money or other thing, where the interest at the rate aforesaid would not amount to that sum, and the same shall not be a usurious charge or rate of interest.

(b) Parties may contract in writing for the payment of interest for the loan or forbearance of money at a rate not to exceed eight dollars upon one hundred dollars for a year, and proportionately for a greater or less sum, or for a longer or shorter time, including points expressed as a percentage of the loan divided by the number of years of the loan contract.

(c) As an alternative to the interest rate authorized by the provisions of subsections (a) or (b) of this section and any interest rate authorized by any other provision of this code, where a loan of money is made for the purpose of purchasing real estate upon which is situate a single family or multi-family residential unit or units, or for the construction of a single family or multi-family residential unit or units upon real estate, or additions or improvements thereto, or for the purpose of the payment of a loan theretofore made for the construction of a single family or multi-family residential unit or units upon real estate, and any such loan is secured by a first mortgage or first deed of trust upon such real property, after the effective date of this section and until the first day of July, one thousand nine hundred seventy-five, the parties may contract in writing for the payment of interest for such loan of money at a rate not to exceed nine dollars upon one hundred dollars for a year and proportionately for a greater or less sum, or for a longer or shorter time, including points expressed as a percentage of the loan divided by the number of years of the loan contract, and such maximum rate shall be valid for the term of such contract: Provided, That the parties may contract in writing for the payment of interest for such loan of money
at the rate specified in this subsection (c) only if such
contract in writing also specifies that there shall be no
penalty whatever for prepayment of the loan in whole
or in part by cash, a new loan or otherwise, and such
contract provision prohibiting any such penalty shall
govern and control notwithstanding any other provision
of this code to the contrary, whether such other provision
was enacted before or after the enactment of this section:
Provided, however, That no such contract shall contain
an escalation of interest clause which would allow an
increase in the rate of interest being charged.

(d) For the purpose of subsections (b) and (c) of this
section, the term "points" is defined as the amount of
money, or other consideration, received by the lender,
from whatever source, as a consideration for making the
loan and not otherwise expressly permitted by statute.

(e) In order for the Legislature to determine whether
the period of time during which parties may enter into a
contract for the payment of the maximum rate of interest
authorized in subsection (c) of this section should be
extended beyond the thirtieth day of June, one thousand
nine hundred seventy-five, the commissioner of banking
shall promulgate rules and regulations requiring all bank­
ing institutions, savings and loan associations and other
financial institutions making loans in this state of the type
specified in said subsection (c) to file with him quarterly
reports as to the number and amount of loans of the
type specified in said subsection (c) made during the
preceding quarter, and such quarterly reports shall con­
tain sufficient detail for the Legislature to ascertain
whether the authorization of the maximum interest rate
provided in said subsection (c) has resulted in the making
of more loans of the type specified in said subsection (c).
The first such report shall cover the quarter which began
on the first day of April, one thousand nine hundred
seventy-four.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

To take effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within appeared this the 3rd day of July, 1974.

[Signature]
Governor
PRESENTED TO THE
GOVERNOR

Date  6/27/74
Time  1:25 p.m.