

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. HEISKELL III
SECRETARY OF STATE
THIS DATE 7-3-74

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 18

(MR. HUBBARD, *original sponsor*)

[Passed June 25, 1974; in effect from passage.]

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.

- 1 (a) Except in cases where it is otherwise specially
- 2 provided by law, legal interest shall continue to be at the

3 rate of six dollars upon one hundred dollars for a year,
4 and proportionately for a greater or less sum, or for a
5 longer or shorter time, and no person upon any contract
6 other than a contract in writing shall take for the loan or
7 forbearance of money, or other thing, above the value of
8 such rate: *Provided*, That a charge of one dollar may
9 be made for any loan or forbearance of money or other
10 thing, where the interest at the rate aforesaid would not
11 amount to that sum, and the same shall not be a usurious
12 charge or rate of interest.

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

20 (c) As an alternative to the interest rate authorized by
21 the provisions of subsections (a) or (b) of this section
22 and any interest rate authorized by any other provision
23 of this code, where a loan of money is made for the pur-
24 pose of purchasing real estate upon which is situate a
25 single family or multi-family residential unit or units, or
26 for the construction of a single family or multi-family
27 residential unit or units upon real estate, or additions or
28 improvements thereto, or for the purpose of the payment
29 of a loan theretofore made for the construction of a
30 single family or multi-family residential unit or units
31 upon real estate, and any such loan is secured by a first
32 mortgage or first deed of trust upon such real property,
33 after the effective date of this section and until the first
34 day of July, one thousand nine hundred seventy-five, the
35 parties may contract in writing for the payment of interest
36 for such loan of money at a rate not to exceed nine dollars
37 upon one hundred dollars for a year and proportionately
38 for a greater or less sum, or for a longer or shorter time,
39 including points expressed as a percentage of the loan
40 divided by the number of years of the loan contract, and
41 such maximum rate shall be valid for the term of such
42 contract: *Provided*, That the parties may contract in
43 writing for the payment of interest for such loan of money

44 at the rate specified in this subsection (c) only if such
45 contract in writing also specifies that there shall be no
46 penalty whatever for prepayment of the loan in whole
47 or in part by cash, a new loan or otherwise, and such
48 contract provision prohibiting any such penalty shall
49 govern and control notwithstanding any other provision
50 of this code to the contrary, whether such other provision
51 was enacted before or after the enactment of this section:
52 *Provided, however,* That no such contract shall contain
53 an escalation of interest clause which would allow an
54 increase in the rate of interest being charged.

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

60 (e) In order for the Legislature to determine whether
61 the period of time during which parties may enter into a
62 contract for the payment of the maximum rate of interest
63 authorized in subsection (c) of this section should be
64 extended beyond the thirtieth day of June, one thousand
65 nine hundred seventy-five, the commissioner of banking
66 shall promulgate rules and regulations requiring all bank-
67 ing institutions, savings and loan associations and other
68 financial institutions making loans in this state of the type
69 specified in said subsection (c) to file with him quarterly
70 reports as to the number and amount of loans of the
71 type specified in said subsection (c) made during the
72 preceding quarter, and such quarterly reports shall con-
73 tain sufficient detail for the Legislature to ascertain
74 whether the authorization of the maximum interest rate
75 provided in said subsection (c) has resulted in the making
76 of more loans of the type specified in said subsection (c).
77 The first such report shall cover the quarter which began
78 on the first day of April, one thousand nine hundred
79 seventy-four.

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

H. Darrel Darby

Chairman Senate Committee

Clarence C. Chubb

Chairman House Committee

Originated in the Senate.

To take effect from passage.

Howard W. Barron

Clerk of the Senate

V. A. Blankenship

Clerk of the House of Delegates

W. T. Brotherton, Jr.

President of the Senate

Lewis H. McManus

Speaker House of Delegates

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

Arch A. Shaw, Jr.

Governor

PRESENTED TO THE
GOVERNOR

Date 6/27/74

Time 1:25 p.m.