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APPROVED AND SIGNED BY THE GOVERNOR

9 MAR 27 P 11:42

Date 3-27-79

Time 8:35 A.M.

OFFICE
CLERK OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1979



ENROLLED

Committee Substitute for

SENATE BILL NO. 72

(By Mr. Stephens)



PASSED March 10, 1979

In Effect ninety days from Passage

No. 72



19 MAR 87 P11:42

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COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 72
(MR. STEPTOE, *original sponsor*)

[Passed March 10, 1979; in effect ninety days from passage.]

AN ACT to amend and reenact section ten, article six, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section eleven, relating to removing from certain parties the right to the defense of usury in any civil action; exempting certain debts that are incurred primarily for a business purpose from the application of the usury laws; and defining "business."

Be it enacted by the Legislature of West Virginia:

That section ten, article six, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section eleven, all to read as follows:

ARTICLE 6. MONEY AND INTEREST.

§47-6-10. Corporations, partnerships, and limited partnerships not entitled to defense of usury.

- 1 No corporation, partnership, or limited partnership may
- 2 interpose the defense of usury in any civil action, nor
- 3 may any bond, note, debt, or contract of a corporation,
- 4 partnership, or limited partnership be set aside, impaired,
- 5 or adjudged invalid by reason of anything contained in
- 6 the laws prohibiting usury.

§47-6-11. Certain business debts exempt from usury laws.

1 No law limiting interest rates or providing for for-
2 feiture, penalty, or other loss or liability because of the
3 rate of interest charged may be applied:

4 (1) To any debt that is incurred by a loan, installment
5 sale, or other similar transaction, and is incurred **primar-**
6 **ily** for a business purpose; or

7 (2) To any addition to or refinancing in whole or in
8 part of a debt meeting the requirements of subdivision
9 (1) of this section, providing such addition or refinancing
10 is also primarily for a business purpose: *Provided, That*
11 if the debt described in subdivision (1) of this section is
12 incurred by a natural person, the provisions of this **sec-**
13 **tion** shall not apply unless such debt is in a **principal**
14 amount of twenty thousand dollars or more.

15 For the purpose of determining the applicability of
16 this section, the term "business" means and includes any
17 activity that is engaged in primarily for the purpose of
18 generating "gross income," as that term is defined in
19 section one, article thirteen, chapter eleven of this code:
20 *Provided, That* "business" does not mean or include
21 farming or any other agricultural activity engaged in by
22 a producer of agricultural commodities, livestock, or
23 other farm products.

9 MAR 27 P3 ; [Enr. Com. Sub. for S. B. No. 72

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

James L. Davis
Chairman Senate Committee

Laurence C. Chustoff
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

J. Sullivan
Clerk of the Senate

V. Blankenship
Clerk of the House of Delegates

J. G. [Signature]
President of the Senate

Byler P. Lee, Jr.
Speaker House of Delegates

The within is approved this the 27
day of March, 1979.

J. D. [Signature]
Governor



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