WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1979

ENROLLED

Committee Substitute for
SENATE BILL NO. 72

(By Mr. Stptse)

PASSED March 19, 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 interpose the defense of usury in any civil action, nor may any bond, note, debt, or contract of a corporation, partnership, or limited partnership be set aside, impaired, or adjudged invalid by reason of anything contained in the laws prohibiting usury.
§47-6-11. Certain business debts exempt from usury laws.

No law limiting interest rates or providing for forfeiture, penalty, or other loss or liability because of the rate of interest charged may be applied:

(1) To any debt that is incurred by a loan, installment sale, or other similar transaction, and is incurred primarily for a business purpose; or

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

For the purpose of determining the applicability of this section, the term "business" means and includes any activity that is engaged in primarily for the purpose of generating "gross income," as that term is defined in section one, article thirteen, chapter eleven of this code: Provided, That "business" does not mean or include farming or any other agricultural activity engaged in by a producer of agricultural commodities, livestock, or other farm products.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James D. Davis
Chairman Senate Committee

Clarence T. Childs
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

J.C. Sisson
Clerk of the Senate

V.A. Blankenship
Clerk of the House of Delegates

J.R. Portwood
President of the Senate

Speaker House of Delegates

The within ___________ this the ______

day of ______________, 1979.

John G. Rowland
Governor