WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980

ENROLLED

HOUSE BILL No. 1140

(By Mr. Schifano and Mr. Swann)

Passed February 15, 1980

In Effect from Passage
ENROLLED

H. B. 1170

(By MR. SCHIFANO and MR. SWANN)

[Passed February 15, 1980; in effect from passage.]

AN ACT to amend article four, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-a, relating to an alternative means for determining the maximum rate of interest on loans made by persons and by banks chartered under the laws of this state; setting forth certain legislative findings and a legislative purpose; authorizing and directing the commissioner of banking to make certain findings and determinations and to prescribe from time to time a maximum rate of interest for such loans which shall not exceed one percent in excess of the discount rate on ninety-day commercial paper in effect at the federal reserve district where such person or state chartered bank is located; authorizing any person or a state chartered bank to contract in writing for the payment of interest not to exceed such maximum rate; and fixing at time of commitment an interest rate on loans to be consummated in the future.

Be it enacted by the Legislature of West Virginia:

That article four, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty-a, to read as follows:
ARTICLE 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.

§31A-4-30a. Legislative findings; fixing alternative maximum interest rate on loans by persons or by banks chartered under state law; authorizing commissioner of banking to make certain findings and determinations and to fix maximum interest rate on such loans from time to time subject to limitation.

(a) The Legislature hereby finds and declares that:

1. (1) Under federal banking laws, national banking associations are permitted to charge interest on loans at a rate not exceeding one percent in excess of the discount rate on ninety-day commercial paper in effect at the federal reserve bank in the federal reserve district where the national banking association is located:

2. (2) Banks chartered under the laws of West Virginia are unable to charge interest on a comparable basis, and hence may from time to time be at a competitive disadvantage in relation to national banking associations having their principal offices in the state:

3. (3) It is in the best interest of the citizens of this state to preserve the state banking system and to that end, and in order to foster equitable competition as to interest rates, to provide a means by which banks chartered under the laws of West Virginia, as an alternative to the interest rates authorized by any other provisions of this code, may, if authorized by the commissioner of banking, charge interest at a rate comparable to the rate now permitted to national banking associations;

4. (4) Such alternative interest rate should be prescribed from time to time by the commissioner of banking, taking into account the interest rate permitted to be charged by national banking associations having their principal offices in the state and conditions then prevailing so as to permit and encourage competition in interest rates between the banks of West Virginia.

(b) In view of the foregoing findings, it is the purpose of this section to authorize and direct the commissioner of banking to prescribe from time to time the maximum interest rates on loans of money made by persons or by banks chartered...
under the laws of West Virginia, as an alternative to the interest rates authorized by any other provisions of this code, and to authorize such persons or banks to charge up to the maximum interest rates so fixed.

(c) The commissioner of banking is hereby authorized and directed to find and determine from time to time whether the maximum rate of interest which may be charged by national banking associations having their principal offices in the state is greater than the maximum rate of interest which may be charged by persons or by banks chartered under the laws of West Virginia located in the same federal reserve district and if so, whether under prevailing conditions said state chartered banks are thereby placed at a competitive disadvantage and to prescribe from time to time by order a maximum rate of interest which may be charged by persons or by banks chartered under the laws of West Virginia, as an alternative to the interest rates authorized by any other provisions of this code, which maximum rate of interest shall not exceed one percent in excess of the discount rate on ninety-day commercial paper in effect at the federal reserve bank in the federal reserve district where such banks or persons are located, such finding and determination to be made and such maximum rate prescribed within two business days after the effective date of any change in such discount rate.

(d) Each time the discount rate shall change at a federal reserve bank in a federal reserve district in which a bank chartered under the laws of West Virginia is located, the commissioner of banking shall, in accordance with the provisions of subsection (c) of this section, make the required finding and determination and prescribe the maximum rate of interest which may be charged by persons or by state-chartered banks located in such federal reserve district for loans made pursuant to the provisions of this section, and shall cause such maximum rate of interest to be issued to the public, such maximum rate of interest to be effective immediately.

(e) Notwithstanding any other provisions of this section, the commissioner of banking shall on the effective date of this section or, if such day is a Saturday, Sunday
or legal holiday, on the next succeeding business day make
the finding and determination required by subsection (c) of
this section and prescribe by order and issue to the public
said maximum rate of interest for persons and state chartered
banks located in such district which shall be effective until
the commissioner of banking shall next issue an order pre-
scribing such maximum rate of interest.

(f) As an alternative to the interest rate authorized by
any other provisions of this code, any person may or any bank
now or hereafter chartered under the laws of West Virginia
may, after the effective date of this section, on any loan of
money, contract in writing for the payment of interest at a rate,
including points expressed as a percentage of the loan
divided by the number of years of the loan contract, not
to exceed the then effective maximum rate prescribed by the
commissioner of banking pursuant to the provisions of this
section.

(g) For the purpose of subsection (f) of this section, the term
“points” is defined as the amount of money, or other considera-
tion, received by any person or by such banks, from whatever
source, as a consideration for making the loan and not other-
wise expressly permitted by statute.

(h) A commitment to make a loan pursuant to this section
which provides for consummation within some future time may
be consummated pursuant to the provisions, including interest
rate, of such commitment notwithstanding the fact that the
maximum rate of interest at the time the loan contract
is entered into is less than a commitment rate of interest:
Provided, That the commitment rate of interest does not
exceed the maximum interest rate in effect on the date the
commitment was issued: Provided, however, That the com-
mitment when agreed to by the borrower constitutes a legally
binding obligation on the part of such person or such bank to
make such a loan within a specified time period in the future at
a rate of interest not exceeding the maximum rate of interest
effective as of the date of commitment, and the commitment
does not include any condition for increase of the interest rate
at the time of loan consummation even though the maximum rate of interest is then higher.

(i) Nothing contained in this section shall prohibit the parties to any loan transaction from contracting for a rate of interest authorized by any other provision of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Charles E. Ferguson  
Chairman House Committee

Originated in the House.

Takes effect from passage.

Joseph C. Willis  
Clerk of the Senate

C. W. Blankenship  
Clerk of the House of Delegates

T. J. Bright  
President of the Senate

Archie B. Lee  
Speaker House of Delegates

The within is...ed this the 26

day of February, 1980.

John D. Barge  
Governor