

Date 2-26-80

Time 4:30 p.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980



ENROLLED

HOUSE BILL No. 1170

(By Mr. Schifano and Mr. Swann)



Passed February 15, 1980

In Effect - from - Passage



770: 1170

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.

1 (a) The Legislature hereby finds and declares that:

2 (1) Under federal banking laws, national banking asso-
3 ciations are permitted to charge interest on loans at a rate
4 not exceeding one percent in excess of the discount rate on
5 ninety-day commercial paper in effect at the federal reserve
6 bank in the federal reserve district where the national bank-
7 ing association is located:

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

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

21 (4) Such alternative interest rate should be prescribed from
22 time to time by the commissioner of banking, taking into ac-
23 count the interest rate permitted to be charged by national bank-
24 ing associations having their principal offices in the state and
25 conditions then prevailing so as to permit and encourage com-
26 petition in interest rates between the banks of West Virginia.

27 (b) In view of the foregoing findings, it is the purpose of
28 this section to authorize and direct the commissioner of bank-
29 ing to prescribe from time to time the maximum interest rates
30 on loans of money made by persons or by banks chartered

31 under the laws of West Virginia, as an alternative to the inter-
32 est rates authorized by any other provisions of this code, and
33 to authorize such persons or banks to charge up to the maxi-
34 mum interest rates so fixed.

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

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

66 (e) Notwithstanding any other provisions of this sec-
67 tion, the commissioner of banking shall on the effective
68 date of this section or, if such day is a Saturday, Sunday

69 or legal holiday, on the next succeeding business day make
70 the finding and determination required by subsection (c) of
71 this section and prescribe by order and issue to the public
72 said maximum rate of interest for persons and state chartered
73 banks located in such district which shall be effective until
74 the commissioner of banking shall next issue an order pre-
75 scribing such maximum rate of interest.

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

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

91 (h) A commitment to make a loan pursuant to this section
92 which provides for consummation within some future time may
93 be consummated pursuant to the provisions, including interest
94 rate, of such commitment notwithstanding the fact that the
95 maximum rate of interest at the time the loan contract
96 is entered into is less than a commitment rate of interest:
97 *Provided*, That the commitment rate of interest does not
98 exceed the maximum interest rate in effect on the date the
99 commitment was issued: *Provided, however*, That the com-
100 mitment when agreed to by the borrower constitutes a legally
101 binding obligation on the part of such person or such bank to
102 make such a loan within a specified time period in the future at
103 a rate of interest not exceeding the maximum rate of interest
104 effective as of the date of commitment, and the commitment
105 does not include any condition for increase of the interest rate

106 at the time of loan consummation even though the maximum
107 rate of interest is then higher.

108 (i) Nothing contained in this section shall prohibit the
109 parties to any loan transaction from contracting for a rate
110 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

Clarence C. Livingston
Chairman House Committee

Originated in the House.

Takes effect from passage.

Todd C. Willis
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

H. T. Bostwick
President of the Senate

Clayton M. Lee, Jr.
Speaker House of Delegates

The within is passed this the 26
day of February, 1980.

John R. Raper
Governor

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OFFICE OF THE GOVERNOR

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