

No: 1172

RECEIVED

MAR 3 1 32 PM '84

OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984

— ● —

ENROLLED

HOUSE BILL No. 1172

(By ~~the~~ Del. William + Del. Schifano)

— ● —

Passed February 29, 1984

In Effect January 1, 1984 Passage



ENROLLED

H. B. 1172

(By DELEGATE GILLIAM and DELEGATE SCHIFANO)

[Passed February 29, 1984; in effect January 1, 1984.]

AN ACT to amend and reenact section one, article one, chapter forty-seven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the West Virginia lending and credit rate board; authorizing the board to prescribe semiannual, rather than quarterly, alternative maximum interest rates or finance charges on loans, credit sales, forbearances or other similar transactions; requiring semiannual reports; specifying dates for filing proposed changes with the banking commissioner; providing for public hearings; establishing effective dates for rate changes; providing for decisions as to whether a board meeting is necessary; and providing for emergency meetings.

Be it enacted by the Legislature of West Virginia:

That section one, article one, chapter forty-seven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. LENDING AND CREDIT RATE BOARD.

§47A-1-1. Legislative findings; creation, membership, powers and duties of board.

- 1 (a) The Legislature hereby finds and declares that:
- 2 (1) Changes in the permissible charges on loans, credit
- 3 sales or transactions, forbearances or other similar transac-
- 4 tions requires specialized knowledge of the needs of the

5 citizens of West Virginia for credit for personal and com-
6 mercial purposes and knowledge of the availability of such
7 credit at reasonable rates to the citizens of this state while
8 affording a competitive return to persons extending such
9 credit;

10 (2) Maximum charges on loans, credit sales or transac-
11 tions, forbearances or other similar transactions executed
12 in this state should be prescribed from time to time to reflect
13 changed economic conditions, current interest rates and fin-
14 ance charges throughout the United States and the availability
15 of credit within the state in order to promote the making
16 of such loans in this state; and

17 (3) The prescribing of such maximum interest rates and
18 finance charges can be accomplished most effectively and
19 flexibly by a board comprised of the heads of designated
20 government agencies, university schools of business and ad-
21 ministration and members of the public.

22 (b) In view of the foregoing findings, it is the purpose
23 of this section to establish the West Virginia lending and
24 credit rate board and authorize said board to prescribe semi-
25 annually the maximum interest rates and finance charges
26 on loans, credit sales or transactions, forbearances or similar
27 transactions made pursuant to this section subject to the pro-
28 visions, conditions and limitations hereinafter set forth and
29 to authorize lenders, sellers and other creditors to charge up
30 to the maximum interest rates or finance charges so fixed.
31 The rates prescribed by the board are alternative rates and
32 any creditor may utilize either the rate or rates set by the
33 board or any other rate or rates which the creditor is per-
34 mitted to charge under any other provision of this code.

35 (c) The West Virginia lending and credit rate board
36 shall be comprised of:

37 (1) The director of the governor's office of economic and
38 community development;

39 (2) The West Virginia state treasurer;

40 (3) The West Virginia banking commissioner;

41 (4) The deans of the schools of business and administra-
42 tion at Marshall University and West Virginia University;

43 (5) The director of the division of consumer protection
44 of the attorney general's office;

45 (6) Three members of the public appointed by the gov-
46 ernor with the advice and consent of the Senate. The
47 members of the public shall be appointed for terms of six
48 years each, and until their successors are appointed and
49 qualified; except that of the members first appointed, one
50 shall be appointed for a term of two years, one for a term
51 of four years and one for a term of six years. A member who
52 has served one full term of six years shall be ineligible for ap-
53 pointment for the next succeeding term. Vacancies shall be
54 filled by appointment of Governor with the advice and consent
55 of the Senate, or if any vacancy remains unfilled for three
56 months, by a majority vote of the board. The West Virginia
57 banking commissioner shall serve as chairperson of the board
58 and the rate or rates set by the board shall be determined by
59 a majority vote of those members of the board in attendance
60 at the respective board meeting.

61 (d) The West Virginia lending and credit rate board is here-
62 by authorized and directed to meet after the thirty-first day of
63 December, one thousand nine hundred eighty-three, on the first
64 Tuesday of April and on the first Tuesday of October of each
65 year or more or less frequently as required by the circumstances
66 and to prescribe by order a maximum rate of interest and
67 finance charge for the next succeeding six months, effective on
68 the first day of June and on the first day of December, for any
69 loans, credit sales or transactions, forbearances or similar trans-
70 actions made pursuant to this section. In fixing said maximum
71 rates of interest and finance charge, the board shall take into
72 consideration prevailing economic conditions, including the
73 monthly index of long-term United States government bond
74 yields for the preceding calendar month, yields on conventional
75 commercial short-term loans and notes throughout West Vir-
76 ginia and throughout the United States and on corporate inter-
77 est-bearing securities of high quality, the availability of credit at
78 reasonable rates to the citizens of this state which afford a

79 competitive return to persons extending such credit, and such
80 other factors as the board may determine.

81 (e) Any petition proposing a change in the prescribed
82 maximum rates of interest and finance charges must be filed
83 in the office of the banking commissioner no later than the
84 fifteenth day of February in order to be voted on at the
85 board meeting on the first Tuesday of April and no later than
86 the fifteenth day of August in order to be voted on at the
87 board meeting on the first Tuesday of October. Whenever any
88 change in the prescribed maximum rates of interest and
89 finance charges is proposed the board shall schedule a hear-
90 ing, at least fifteen days prior to the board meeting at which
91 the proposed rates of interest and finance charge will be
92 voted on by the members of the board, and shall give all
93 interested parties the opportunity to testify and to submit
94 information at such public hearing that is relevant. Notice
95 of the scheduled public hearing shall be issued and dissemi-
96 nated to the public at least twenty days prior to the scheduled
97 date of the hearing.

98 (f) The board shall prescribe by order issued not later
99 than the twentieth day of April and not later than the
100 twentieth day of October, in accordance with the pro-
101 visions of subsection (d) of this section the maximum
102 rates of interest and finance charge for the next suc-
103 ceeding six months for any loan, credit sale, forbear-
104 ance or similar transaction made pursuant to this sec-
105 tion and shall cause such maximum rate of interest and
106 finance charge to be issued and disseminated to the public,
107 such maximum rate of interest and finance charge to be ef-
108 fective on the first day of June and the first day of December
109 for the next succeeding six months.

OK
E.V.
DLK
110 (g) Notwithstanding the other provisions of this chap-
111 ter, the West Virginia ~~lending~~ and credit rate board
112 shall not be required to meet if no petition has been
113 filed with the board requesting a hearing and interest
114 rates and economic conditions have not changed suffici-
115 ently to indicate that any change in the existing rate
116 order would be required, and there are not at least two

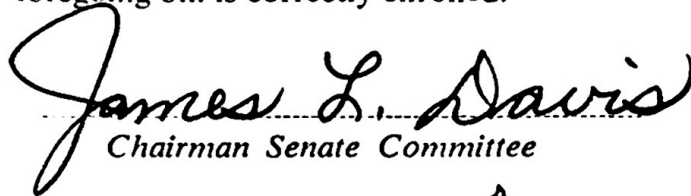
117 board members who concur that a meeting of the board
118 is necessary. If the board does not meet, the maximum
119 rates of interest and finance charges prescribed by the
120 board in the existing rate order shall remain in full
121 force and effect until the next time the board meets and
122 prescribes different maximum rates of interest and finance
123 charges.

124 (h) If circumstances and economic conditions require,
125 the chairperson or any three board members, at any time,
126 may call an emergency interim meeting of the West
127 Virginia lending and credit rate board, at which time
128 the chairperson shall give ten days notice of the scheduled
129 emergency meeting to the public. All interested parties
130 shall have the opportunity to be heard and to submit
131 information at such emergency meeting that is relevant.
132 Any and all emergency rate board orders shall be ef-
133 fective within thirty days from the date of such emergency
134 meeting.

135 (i) Each member of the board, except those whose
136 regular salary is paid by the state of West Virginia,
137 shall receive seventy-five dollars per diem while actual-
138 ly engaged in the performance of the duties of the
139 board. Each member shall be reimbursed for all rea-
140 sonable and necessary expenses actually incurred during
141 the performance of their duties, except that in the event
142 the expenses are paid by a third party the members
143 shall not be reimbursed by the state. The reimburse-
144 ment shall be paid out of the revolving fund established
145 by section two of this article upon a requisition upon
146 the state auditor, properly certified by the banking com-
147 missioner.

148 (j) In setting the maximum interest rates and finance
149 charges, the board may set varying rates based on the type
150 of credit transaction, the term of transaction, the type of
151 debtor, the type of creditor, and other factors relevant to
152 determination of such rates. In addition, the board may set
153 varying rates for ranges of principal balances within a single
154 category of credit transaction.

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


Chairman Senate Committee

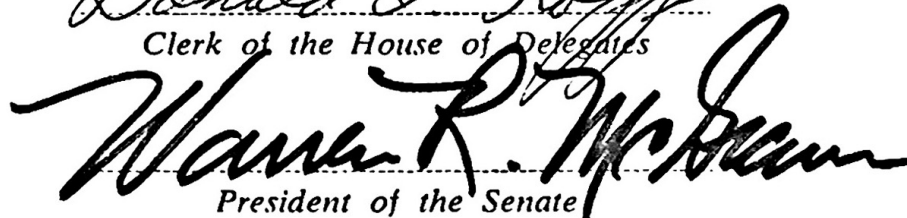

Chairman House Committee

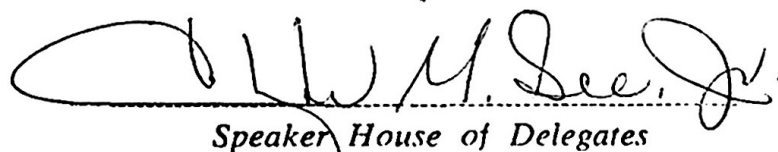
Originating in the House.

Takes effect January 1, 1984.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within is approved this the 7
day of March, 1984.


Governor

RECEIVED

84 MAR 8 P 1:40

OFFICE
SECY. OF STATE