WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

ENROLLED

SENATE BILL NO. 92

(By Senator)

PASSED March 11, 1987

In Effect on Date of Passage
AN ACT to amend and reenact section one hundred four, article three, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to finance charges for loans other than loans made pursuant to revolving loan accounts; finance charge on assigned contracts; assignments of transactions made in other states; and exceptions.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.

§46A-3-104. Finance charge for loans other than loans made pursuant to revolving loan accounts; finance charge on assigned contracts; exceptions.

(1) With respect to a consumer loan, other than a consumer loan made pursuant to a revolving loan account:

(a) A bank, as defined in section two, article one, chapter thirty-one-a of this code, may contract for and receive a loan finance charge not exceeding the charge or interest...
permitted by the provisions of section thirty, article four, chapter thirty-one-a or by the provisions of section five, section five-a, or section five-b, article six, chapter forty-seven of this code; (b) an industrial loan company, as defined in section three, article seven, chapter thirty-one of this code, may contract for and receive a loan finance charge not exceeding the aggregate of the interest and charges permitted by subdivisions (5) and (6), subsection (a), section eleven, article seven, chapter thirty-one of this code or by the provisions of section five, article six, chapter forty-seven of this code; (c) a building and loan association, as defined in section two, article six, chapter thirty-one of this code, may contract for and receive a loan finance charge not exceeding the charge or interest permitted by the provisions of section seventeen, article six, chapter thirty-one of this code, or by the provisions of section five, article six, chapter forty-seven of this code; (d) a credit union, as defined in section one, article ten, chapter thirty-one of this code, may contract for and receive a loan finance charge not exceeding the charge or interest permitted by the provisions of section sixteen, article ten, chapter thirty-one of this code, or by the provisions of section five, article six, chapter forty-seven of this code; and (e) any other lender, other than a supervised lender, may contract for and receive a loan finance charge not exceeding the charge or interest permitted by the provisions of section five, section five-a, or section five-b, article six, chapter forty-seven of this code.

(2) As an alternative to the loan finance charge allowed by section one hundred four, subsection (1) of this article, from the effective date of this subsection until and including the first day of July, one thousand nine hundred eighty-two, a lender, other than a supervised lender, may contract for and receive a loan finance charge not exceeding eighteen percent per annum calculated according to the actuarial method.

(3) This section does not limit or restrict the manner of calculating the loan finance charge, whether by way of add-on, discount or otherwise, so long as the rate of loan finance charge does not exceed that permitted by this section.

(4) Notwithstanding any provision of this section to the contrary, with respect to a consumer loan involving a motor vehicle or a mobile home or with respect to a consumer loan
to finance the sale from one seller of both a mobile home and
the real estate upon which such mobile home is or will be
located, or with respect to a consumer loan where a security
interest in real estate owned by the borrower is given to the
lender as collateral for such loan, a lender may from the
effective date of this section and until and including the
first day of July, one thousand nine hundred eighty-two,
contract for and receive a loan finance charge not exceeding
eighteen percent per year on the unpaid balance calculated
according to the actuarial method: Provided, That the
quantity of real estate involved in such consumer loan
transactions involving a mobile home and real estate where
such finance charge is contracted for and received shall not
exceed one acre.
(5) If the loan is precomputed:
(a) The loan finance charge may be calculated on the
assumption that all scheduled payments will be made when
due, and
(b) The effect of prepayment, refinancing or
consolidation is governed by the provisions on rebate upon
prepayment, refinancing or consolidation contained in
section one hundred eleven of this article.
(6) Notwithstanding subsection (1), the lender may
contract for and receive a minimum loan finance charge of
not more than five dollars when the amount loaned does not
exceed seventy-five dollars, or seven dollars and fifty cents
when the amount loaned exceeds seventy-five dollars.
(7) An assignee of a consumer credit sale contract may
collect, receive or enforce the sales finance charge provided
in said contract, and any such charge so collected, received
or enforced by an assignee shall not be deemed usurious or
in violation of this chapter or any other provision of this
code if such sales finance charge does not exceed the limits
permitted to be charged by a seller under the provisions of
this chapter.
(8) Notwithstanding subsection (7), a resident lender
who is the assignee of a consumer credit sales contract
executed by a resident of another state with a credit grantor
in that state, may collect, receive or enforce the sales
finance charge provided in said contract under the laws of
the state where executed. Such charge shall not be deemed
to be usurious or in violation of the provisions of this
chapter or any other provisions of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 19th day of March 1987.

Governor