

No: 92

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987



ENROLLED

SENATE BILL NO. 92

(By Senator Leaves)



PASSED March 11 1987

In Effect immediately from Passage



ENROLLED
Senate Bill No. 92

(By SENATOR TUCKER)

[Passed March 11, 1987; in effect ninety days from 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 (1) With respect to a consumer loan, other than a
- 2 consumer loan made pursuant to a revolving loan account:
- 3 (a) A bank, as defined in section two, article one, chapter
- 4 thirty-one-a of this code, may contract for and receive a
- 5 loan finance charge not exceeding the charge or interest

6 permitted by the provisions of section thirty, article four,
7 chapter thirty-one-a or by the provisions of section five,
8 section five-a, or section five-b, article six, chapter forty-
9 seven of this code; (b) an industrial loan company, as
10 defined in section three, article seven, chapter thirty-one of
11 this code, may contract for and receive a loan finance
12 charge not exceeding the aggregate of the interest and
13 charges permitted by subdivisions (5) and (6), subsection
14 (a), section eleven, article seven, chapter thirty-one of this
15 code or by the provisions of section five, article six, chapter
16 forty-seven of this code; (c) a building and loan association,
17 as defined in section two, article six, chapter thirty-one of
18 this code, may contract for and receive a loan finance
19 charge not exceeding the charge or interest permitted by the
20 provisions of section seventeen, article six, chapter thirty-
21 one of this code, or by the provisions of section five, article
22 six, chapter forty-seven of this code; (d) a credit union, as
23 defined in section one, article ten, chapter thirty-one of this
24 code, may contract for and receive a loan finance charge not
25 exceeding the charge or interest permitted by the provisions
26 of section sixteen, article ten, chapter thirty-one of this
27 code, or by the provisions of section five, article six, chapter
28 forty-seven of this code; and (e) any other lender, other than
29 a supervised lender, may contract for and receive a loan
30 finance charge not exceeding the charge or interest
31 permitted by the provisions of section five, section five-a, or
32 section five-b, article six, chapter forty-seven of this code.

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

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

46 (4) Notwithstanding any provision of this section to the
47 contrary, with respect to a consumer loan involving a motor
48 vehicle or a mobile home or with respect to a consumer loan

49 to finance the sale from one seller of both a mobile home and
50 the real estate upon which such mobile home is or will be
51 located, or with respect to a consumer loan where a security
52 interest in real estate owned by the borrower is given to the
53 lender as collateral for such loan, a lender may from the
54 effective date of this section and until and including the
55 first day of July, one thousand nine hundred eighty-two,
56 contract for and receive a loan finance charge not exceeding
57 eighteen percent per year on the unpaid balance calculated
58 according to the actuarial method: *Provided*, That the
59 quantity of real estate involved in such consumer loan
60 transactions involving a mobile home and real estate where
61 such finance charge is contracted for and received shall not
62 exceed one acre.

63 (5) If the loan is precomputed:

64 (a) The loan finance charge may be calculated on the
65 assumption that all scheduled payments will be made when
66 due, and

67 (b) The effect of prepayment, refinancing or
68 consolidation is governed by the provisions on rebate upon
69 prepayment, refinancing or consolidation contained in
70 section one hundred eleven of this article.

71 (6) Notwithstanding subsection (1), the lender may
72 contract for and receive a minimum loan finance charge of
73 not more than five dollars when the amount loaned does not
74 exceed seventy-five dollars, or seven dollars and fifty cents
75 when the amount loaned exceeds seventy-five dollars.

76 (7) An assignee of a consumer credit sale contract may
77 collect, receive or enforce the sales finance charge provided
78 in said contract, and any such charge so collected, received
79 or enforced by an assignee shall not be deemed usurious or
80 in violation of this chapter or any other provision of this
81 code if such sales finance charge does not exceed the limits
82 permitted to be charged by a seller under the provisions of
83 this chapter.

84 (8) Notwithstanding subsection (7), a resident lender
85 who is the assignee of a consumer credit sales contract
86 executed by a resident of another state with a credit grantor
87 in that state, may collect, receive or enforce the sales
88 finance charge provided in said contract under the laws of
89 the state where executed. Such charge shall not be deemed
90 to be usurious or in violation of the provisions of this
91 chapter or any other provisions of this code.

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

Blaine Dennis
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Judd A. Hark
.....
Clerk of the Senate

Donald L. Dugg
.....
Clerk of the House of Delegates

Sam Towbin
.....
President of the Senate

Robert C. ...
.....
Speaker House of Delegates

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

Aisha Shaeef
.....
Governor



PRESENTED TO THE
GOVERNOR

Date 3/16/87

Time 3:15 p.m.