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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993



ENROLLED

Committee Substitute for
SENATE BILL NO. 84

(By Senators Minard & Sharpe)



PASSED April 8, 1993
In Effect 90 days from Passage

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 84

(SENATORS MINARD AND SHARPE, *original sponsors*)

[Passed April 8, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact section one hundred two, article seven, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the consumer credit and protection act; and providing a defense to persons who rely upon formal opinions of the attorney general and examination reports and declaratory rulings issued by the commissioner of banking.

Be it enacted by the Legislature of West Virginia:

That section one hundred two, article seven, 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 7. ADMINISTRATION.

§46A-7-102. Power of attorney general; reliance on rules of attorney general or commissioner of banking; duty to report.

1 (1) In addition to other powers granted by this

2 chapter, the attorney general within the limitations
3 provided by law may:

4 (a) Receive and act on complaints, take action
5 designed to obtain voluntary compliance with this
6 chapter or commence proceedings on his own initiative;

7 (b) Counsel persons and groups on their rights and
8 duties under this chapter;

9 (c) Establish programs for the education of consu-
10 mers with respect to credit practices and problems;

11 (d) Make studies appropriate to effectuate the
12 purposes and policies of this chapter and make the
13 results available to the public;

14 (e) Adopt, amend and repeal such reasonable rules
15 and regulations, in accordance with the provisions of
16 chapter twenty-nine-a of this code, as are necessary
17 and proper to effectuate the purposes of this chapter
18 and to prevent circumvention or evasion thereof; and

19 (f) Delegate his powers and duties under this chap-
20 ter to qualified personnel in his office, who shall act
21 under the direction and supervision of the attorney
22 general and for whose acts he shall be responsible.

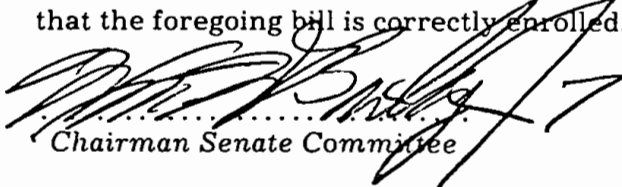
23 (2) Except for refund of an excess charge, no liability
24 is imposed under this chapter for an act done or
25 omitted in conformity with a rule of the attorney
26 general or commissioner, notwithstanding that after
27 the act or omission the rule may be amended or
28 repealed or be determined by judicial or other author-
29 ity to be invalid for any reason. Any form or proce-
30 dure which has been submitted to the commissioner
31 and the attorney general in writing and approved in
32 writing by them shall not be deemed a violation of the
33 penalty provisions of this chapter notwithstanding that
34 such approval may be subsequently amended or
35 rescinded or be determined by judicial or other
36 authority to be invalid for any reason.

37 (3) Except for refund of an excess charge, in any
38 action brought pursuant to the provisions of this
39 chapter, it shall be a defense that the act or omission

40 complained of was in conformity with a published
41 opinion of the attorney general issued in compliance
42 with section one, article three, chapter five of this code
43 or in conformity with an examination report issued by
44 the commissioner to the person against whom the
45 action is brought pursuant to section six, article two,
46 chapter thirty-one-a of this code, or a declaratory
47 ruling issued to the person against whom the action is
48 brought pursuant to subdivision (9), subsection (c),
49 section four of said article.

50 (4) On or before the first day of December of each
51 year, the attorney general and commissioner shall
52 jointly or separately submit a report or reports to the
53 governor and to the Legislature on the operation of
54 their offices, on the use of consumer credit and on
55 consumer protection problems in the state, and on the
56 problems of persons of small means obtaining credit
57 from persons regularly engaged in extending sales or
58 loan credit. For the purpose of making such report or
59 reports, the attorney general and commissioner are
60 authorized to conduct research and make appropriate
61 studies. The report or reports shall include a descrip-
62 tion of the examination and investigation procedures
63 and policies of their offices, a statement of policies
64 followed in deciding whether to investigate or exam-
65 ine the offices of credit suppliers subject to this
66 chapter, a statement of the number and percentages of
67 offices which are periodically investigated or exam-
68 ined, a statement of the types of consumer credit and
69 consumer protection problems of both creditors and
70 consumers which have come to their attention
71 through their examinations and investigations and the
72 disposition of them under existing law, and a general
73 statement of the activities of their offices and of others
74 to promote the purposes of this chapter.

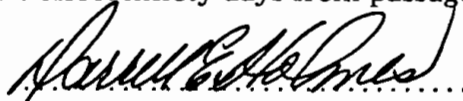
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


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Chairman Senate Committee

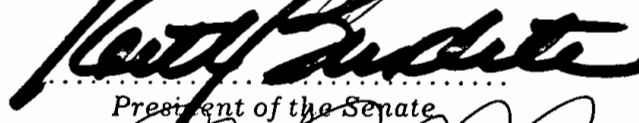

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Chairman House Committee

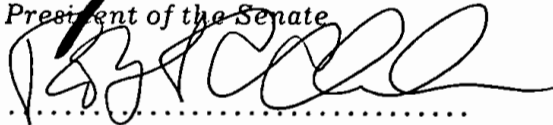
Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved.....this the 22nd.....
day ofApril....., 1993.


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Governor

PRESENTED TO THE

GOVERNOR

Date 4/10/93

Time 9:23am