WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1998

ENROLLED

SENATE BILL NO. 535

(By Senator Bowman, et al.)

PASSED March 2, 1998
In Effect NINETY Days From Passage
ENROLLED

Senate Bill No. 535

(By Senators Bowman, Bailey, Ball, Jackson, Kessler, Plymale, Schoonover, White, Boley, Buckalew, Minear and Scott)

[Passed March 2, 1998; in effect ninety days from passage.]

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 continuing the West Virginia lending and credit rate board.

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; continuation.
(a) The Legislature hereby finds and declares that:

(1) Changes in the permissible charges on loans, credit sales or transactions, forbearance or other similar transactions requires specialized knowledge of the needs of the citizens of West Virginia for credit for personal and commercial purposes and knowledge of the availability of such credit at reasonable rates to the citizens of this state while affording a competitive return to persons extending such credit;

(2) Maximum charges on loans, credit sales or transactions, forbearance or other similar transactions executed in this state should be prescribed from time to time to reflect changed economic conditions, current interest rates and finance charges throughout the United States and the availability of credit within the state in order to promote the making of such loans in this state; and

(3) The prescribing of such maximum interest rates and finance charges can be accomplished most effectively and flexibly by a board comprised of the heads of designated government agencies, university schools of business and administration and members of the public.

(b) In view of the foregoing findings, it is the purpose of this section to establish the West Virginia lending and credit rate board and authorize said board to prescribe semiannually the maximum interest rates and finance charges on loans, credit sales or transactions, forbearance or similar transactions made pursuant to this section subject to the provisions, conditions and limitations hereinafter set forth and to authorize lenders, sellers and other creditors to charge up to the maximum interest rates or finance charges so fixed. The rates prescribed by the board are alternative rates and any creditor may utilize either the rate or rates set by the board or any other rate or rates which the creditor is permitted to charge under any other provision of this code.
(c) The West Virginia lending and credit rate board shall be comprised of:

(1) The director of the governor’s office of economic and community development;

(2) The West Virginia state treasurer;

(3) The West Virginia banking commissioner;

(4) The deans of the schools of business and administration at Marshall university and West Virginia university;

(5) The director of the division of consumer protection of the attorney general’s office; and

(6) Three members of the public appointed by the governor with the advice and consent of the Senate. The members of the public shall be appointed for terms of six years each, and until their successors are appointed and qualified; except that of the members first appointed, one shall be appointed for a term of two years, one for a term of four years and one for a term of six years. A member who has served one full term of six years shall be ineligible for appointment for the next succeeding term. Vacancies shall be filled by appointment of the governor with the advice and consent of the Senate, or if any vacancy remains unfilled for three months, by a majority vote of the board. The West Virginia banking commissioner shall serve as chairperson of the board and the rate or rates set by the board shall be determined by a majority vote of those members of the board in attendance at the respective board meeting.

(d) The West Virginia lending and credit rate board is hereby authorized and directed to meet after the thirty-first day of December, one thousand nine hundred eighty-three, on the first Tuesday of April and on the first Tuesday of October of each year or more or less frequently as required by the circumstances and to prescribe by order a maximum rate of interest and finance charge for the
next succeeding six months, effective on the first day of
June and on the first day of December, for any loans,
credit sales or transactions, forbearance or similar trans-
actions made pursuant to this section. In fixing said
maximum rates of interest and finance charge, the board
shall take into consideration prevailing economic condi-
tions, including the monthly index of long-term United
States government bond yields for the preceding calendar
month, yields on conventional commercial short-term
loans and notes throughout West Virginia and throughout
the United States and on corporate interest-bearing
securities of high quality, the availability of credit at
reasonable rates to the citizens of this state which afford
a competitive return to persons extending such credit and
such other factors as the board may determine.

(e) Any petition proposing a change in the prescribed
maximum rates of interest and finance charges must be
filed in the office of the banking commissioner no later
than the fifteenth day of February in order to be voted on
at the board meeting on the first Tuesday of April and no
later than the fifteenth day of August in order to be voted
on at the board meeting on the first Tuesday of October.
Whenever any change in the prescribed maximum rates of
interest and finance charges is proposed the board shall
schedule a hearing, at least fifteen days prior to the board
meeting at which the proposed rates of interest and
finance charge will be voted on by the members of the board, and shall give all interested parties the opportunity
to testify and to submit information at such public hearing
that is relevant. Notice of the scheduled public hearing
shall be issued and disseminated to the public at least
ten days prior to the scheduled date of the hearing.

(f) The board shall prescribe by order issued not later
than the twentieth day of April and not later than the
twentieth day of October, in accordance with the provi-
sions of subsection (d) of this section the maximum rates
of interest and finance charge for the next succeeding six
months for any loan, credit sale, forbearance or similar transaction made pursuant to this section and shall cause such maximum rate of interest and finance charge to be issued and disseminated to the public, such maximum rate of interest and finance charge to be effective on the first day of June and the first day of December for the next succeeding six months.

(g) Notwithstanding the other provisions of this chapter, the West Virginia lending and credit rate board shall not be required to meet if no petition has been filed with the board requesting a hearing and interest rates and economic conditions have not changed sufficiently to indicate that any change in the existing rate order would be required, and there are not at least two board members who concur that a meeting of the board is necessary. If the board does not meet, the maximum rates of interest and finance charges prescribed by the board in the existing rate order shall remain in full force and effect until the next time the board meets and prescribes different maximum rates of interest and finance charges.

(h) If circumstances and economic conditions require, the chairperson or any three board members, at any time, may call an emergency interim meeting of the West Virginia lending and credit rate board, at which time the chairperson shall give ten days' notice of the scheduled emergency meeting to the public. All interested parties shall have the opportunity to be heard and to submit information at such emergency meeting that is relevant. Any and all emergency rate board orders shall be effective within thirty days from the date of such emergency meeting.

(i) Each member of the board, except those whose regular salary is paid by the state of West Virginia, shall receive seventy-five dollars per diem while actually engaged in the performance of the duties of the board. Each member shall be reimbursed for all reasonable and
necessary expenses actually incurred during the performance of their duties, except that in the event the expenses are paid by a third party the members shall not be reimbursed by the state. The reimbursement shall be paid out of the revolving fund established by section two of this article upon a requisition upon the state auditor, properly certified by the banking commissioner.

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

(k) Pursuant to the provisions of article ten, chapter four of this code, the West Virginia lending and credit rate board shall continue to exist until the first day of July, one thousand nine hundred ninety-nine.
That 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 10th day of ...............

Governor

[Signature]

[Signature]
PRESENTED TO THE
GOVERNOR
Date 3/6/98
Time 3:05 PM