

SB 535

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



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SENATE BILL NO. 535

(By Senator BOWMAN, ET AL)



PASSED MARCH 2, 1998

In Effect NINETY DAYS FROM Passage

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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.

1 (a) The Legislature hereby finds and declares that:

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

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

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

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

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

40 (2) The West Virginia state treasurer;

41 (3) The West Virginia banking commissioner;

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

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

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

63 (d) The West Virginia lending and credit rate board is
64 hereby authorized and directed to meet after the thirty-
65 first day of December, one thousand nine hundred eighty-
66 three, on the first Tuesday of April and on the first
67 Tuesday of October of each year or more or less frequently
68 as required by the circumstances and to prescribe by order
69 a maximum rate of interest and finance charge for the

70 next succeeding six months, effective on the first day of
71 June and on the first day of December, for any loans,
72 credit sales or transactions, forbearance or similar trans-
73 actions made pursuant to this section. In fixing said
74 maximum rates of interest and finance charge, the board
75 shall take into consideration prevailing economic condi-
76 tions, including the monthly index of long-term United
77 States government bond yields for the preceding calendar
78 month, yields on conventional commercial short-term
79 loans and notes throughout West Virginia and throughout
80 the United States and on corporate interest-bearing
81 securities of high quality, the availability of credit at
82 reasonable rates to the citizens of this state which afford
83 a competitive return to persons extending such credit and
84 such other factors as the board may determine.

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

102 (f) The board shall prescribe by order issued not later
103 than the twentieth day of April and not later than the
104 twentieth day of October, in accordance with the provi-
105 sions of subsection (d) of this section the maximum rates
106 of interest and finance charge for the next succeeding six

107 months for any loan, credit sale, forbearance or similar
108 transaction made pursuant to this section and shall cause
109 such maximum rate of interest and finance charge to be
110 issued and disseminated to the public, such maximum rate
111 of interest and finance charge to be effective on the first
112 day of June and the first day of December for the next
113 succeeding six months.

114 (g) Notwithstanding the other provisions of this chapter,
115 the West Virginia lending and credit rate board shall not
116 be required to meet if no petition has been filed with the
117 board requesting a hearing and interest rates and eco-
118 nomic conditions have not changed sufficiently to indicate
119 that any change in the existing rate order would be
120 required, and there are not at least two board members
121 who concur that a meeting of the board is necessary. If
122 the board does not meet, the maximum rates of interest
123 and finance charges prescribed by the board in the
124 existing rate order shall remain in full force and effect
125 until the next time the board meets and prescribes differ-
126 ent maximum rates of interest and finance charges.

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

138 (i) Each member of the board, except those whose
139 regular salary is paid by the state of West Virginia, shall
140 receive seventy-five dollars per diem while actually
141 engaged in the performance of the duties of the board.
142 Each member shall be reimbursed for all reasonable and

143 necessary expenses actually incurred during the perfor-
144 mance of their duties, except that in the event the ex-
145 penses are paid by a third party the members shall not be
146 reimbursed by the state. The reimbursement shall be paid
147 out of the revolving fund established by section two of this
148 article upon a requisition upon the state auditor, properly
149 certified by the banking commissioner.

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

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

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *approved* this the *10th*
day of *March*, 1988

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/6/98

Time 3:05 pm