WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1999

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ENROLLED

House Bill No. 2712

(By Delegates Douglas, Collins, Prunty, H. White, Hatfield, Everson and Stalnaker)

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Passed March 12, 1999

In Effect Ninety Days from Passage
ENROLLED

H. B. 2712

(BY DELEGATES DOUGLAS, COLLINS, PRUNTY, H. WHITE, HATFIELD, EVerson AND STALNAKER)

[Passed March 12, 1999; 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; termination of board.

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

2. (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 transactions made pursuant to this section. In fixing said maximum rates of interest and finance charge, the board shall take into consideration prevailing economic conditions, 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 twenty 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 provisions 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, two thousand five.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within _______ approved ________ day of ____________________, 1999.

Governor