

HB 2712

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DEPARTMENT OF
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



ENROLLED

House Bill No. 2712

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



Passed March 12, 1999

In Effect Ninety Days from Passage

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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
- 3 sales or transactions, forbearance or other similar transactions
- 4 requires specialized knowledge of the needs of the citizens of
- 5 West Virginia for credit for personal and commercial purposes
- 6 and knowledge of the availability of such credit at reasonable
- 7 rates to the citizens of this state while affording a competitive
- 8 return to persons extending such credit;

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

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

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

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

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

38 (2) The West Virginia state treasurer;

39 (3) The West Virginia banking commissioner;

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

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

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

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

79 (e) Any petition proposing a change in the prescribed
80 maximum rates of interest and finance charges must be filed in
81 the office of the banking commissioner no later than the

82 fifteenth day of February in order to be voted on at the board
83 meeting on the first Tuesday of April and no later than the
84 fifteenth day of August in order to be voted on at the board
85 meeting on the first Tuesday of October. Whenever any change
86 in the prescribed maximum rates of interest and finance charges
87 is proposed the board shall schedule a hearing, at least fifteen
88 days prior to the board meeting at which the proposed rates of
89 interest and finance charge will be voted on by the members of
90 the board, and shall give all interested parties the opportunity to
91 testify and to submit information at such public hearing that is
92 relevant. Notice of the scheduled public hearing shall be issued
93 and disseminated to the public at least twenty days prior to the
94 scheduled date of the hearing.

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

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

118 (h) If circumstances and economic conditions require, the
119 chairperson or any three board members, at any time, may call

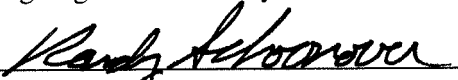
120 an emergency interim meeting of the West Virginia lending and
121 credit rate board, at which time the chairperson shall give ten
122 days' notice of the scheduled emergency meeting to the public.
123 All interested parties shall have the opportunity to be heard and
124 to submit information at such emergency meeting that is
125 relevant. Any and all emergency rate board orders shall be
126 effective within thirty days from the date of such emergency
127 meeting.

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

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

146 (k) Pursuant to the provisions of article ten, chapter four of
147 this code, the West Virginia lending and credit rate board shall
148 continue to exist until the first day of July, two thousand five.

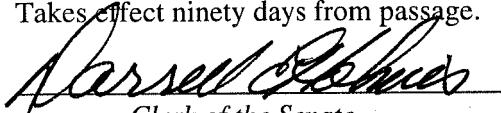
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

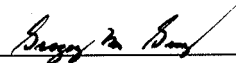

Chairman Senate Committee

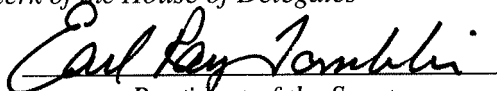

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

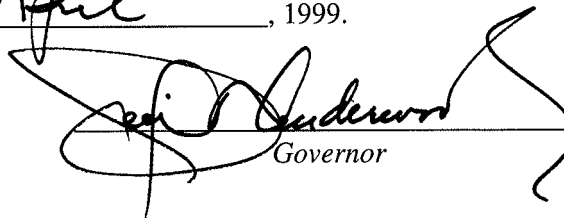

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 2nd
day of April, 1999.


Governor

PRESENTED TO THE

GOVERNOR

Date

3/20/99

Time

3:48 pm