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2003 MAR 20 P 5: 24
OFFICE WEST VIRGINIA
SECRETARY OF STATE

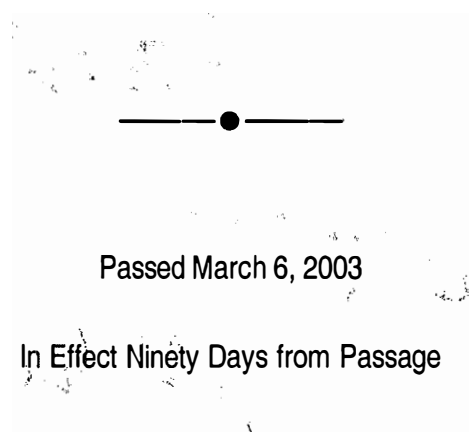
WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2003



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2948**

(By Delegates H. White, R. M. Thompson, Perry and Hrutkay)



Passed March 6, 2003

In Effect Ninety Days from Passage

FILED

2003 MAR 20 P 5: 25

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E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2948

(BY DELEGATES H. WHITE, R. M. THOMPSON,
PERRY AND HRUTKAY)

[Passed March 6, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section one hundred fifteen, article two, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to expenses of realizing on security interests; allowing recovery of certain expenses when a consumer requests discontinuation of efforts to realize on security interests, and providing notification to consumer of certain charges within a twelve-month period.

Be it enacted by the Legislature of West Virginia:

That section one hundred fifteen, article two, 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 2. CONSUMER CREDIT PROTECTION.

§46A-2-115. Limitation on default charges.

1 (a) Except for reasonable expenses including costs and fees
2 authorized by statute incurred in realizing on a security interest,
3 the agreement with respect to a consumer credit sale or a
4 consumer loan may not provide for charges as a result of
5 default by the consumer other than those authorized by this
6 chapter.

7 (b) A consumer loan secured by real property: (1) Origin-
8 nated by a bank or savings and loan association, or an affiliate,
9 and not solicited by an unaffiliated broker; or (2) held by a
10 federal home loan bank, the federal national mortgage associa-
11 tion, the federal home loan mortgage corporation, the govern-
12 ment national mortgage association, the West Virginia housing
13 development fund, or (3) insured or guaranteed by the farmers
14 home administration, the veteran's administration, department
15 of housing and urban development, which includes in the loan
16 agreement a reinstatement period beginning with the trustee
17 notice of foreclosure and ending prior to foreclosure sale, may,
18 in addition to those authorized by this chapter, permit the
19 recovery of the following actual reasonable reinstatement
20 period expenses paid or owed to third parties: (i) Publication
21 costs paid to the publisher of the notice; (ii) appraisal fee when
22 required by the circumstances or by a regulatory authority and
23 only after the loan has been referred to a trustee for foreclosure;
24 (iii) title check and lienholder notification fee not to exceed two
25 hundred dollars, as adjusted from time to time by the increase
26 in the consumer price index for all consumers published by the
27 United States Department of Labor; and (iv) certified mailing
28 costs.

29 (c) All amounts paid to a creditor arising out of any
30 consumer credit sale or consumer loan shall be credited upon
31 receipt against payments due: *Provided*, That amounts received
32 and applied during a cure period will not result in a duty to
33 provide a new notice of right to cure; and provided further that
34 partial amounts received during the reinstatement period set

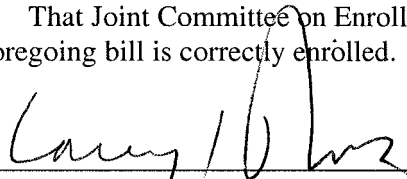
35 forth in subsection (b) of this section do not create an automatic
36 duty to reinstate and may be returned by the creditor. Default
37 charges shall be accounted for separately; those set forth in
38 subsection (b) arising during such a reinstatement period may
39 be added to principal.

40 (d) At least once every twelve months, the holder or
41 servicer of each consumer loan secured by real property against
42 which the creditor assesses any default charge, and: (1) Not
43 serviced by the originating lender or its affiliate or their
44 successors by merger, (2) not held by a federal home loan bank,
45 the federal national mortgage association, the federal home loan
46 mortgage corporation, the government national mortgage
47 association, the West Virginia housing development fund, or (3)
48 not insured or guaranteed by the farmers home administration,
49 the veteran's administration, department of housing and urban
50 development, shall transmit to the consumer an accounting of
51 every default charge assessed within the previous twelve
52 months, including the date, amount and nature of the cost.

53 For purposes of this subsection, this notice requirement
54 does not apply to delinquency charges permitted under sections
55 one hundred twelve and one hundred thirteen, article three of
56 this chapter; credit line over-the-limit fees; deferral charges
57 permitted under section one hundred fourteen, article three of
58 this chapter; collateral protection insurance permitted under
59 section one hundred nine-a, article three of this chapter; and
60 advances to pay taxes.

61 (e) A provision in violation of this section is unenforceable.
62 The amendments to this section by acts of the Legislature in the
63 regular session of two thousand three are a clarification of
64 existing law and shall be retroactively applied to all agreements
65 in effect on the date of passage of the amendments, except
66 where controversies arising under those agreements are pending
67 prior to the date of passage of the amendments.

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



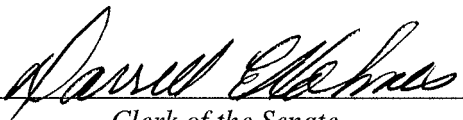
Chairman Senate Committee



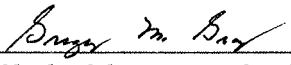
Chairman House Committee

Originating in the House.

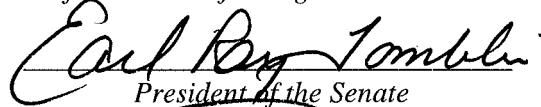
In effect ninety days from passage



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 20
day of March 2003.



Governor

PRESENTED TO THE
GOVERNOR

Date 3/14/03

Time 9:35 AM