WEST VIRGINIA LEGISLATURE
SEVENTY- NINTH LEGISLATURE
REGULAR SESSION, 2009

ENROLLED

Senate Bill No. 476

(By Senators Minard, Jenkins and Plymale)

[Passed April 8, 2009; in effect ninety days from passage.]
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(BY SENATORS MINARD, JENKINS AND PLYMALE)

[Passed April 8, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §31A-2A-1 of the Code of West Virginia, 1931, as amended, relating to providing that the definition of “financial institution” includes regulated consumer lenders, residential mortgage lenders, brokers and servicers, licensed money services businesses and all entities which are by law under the jurisdiction and supervision of the Commissioner of Banking.

Be it enacted by the Legislature of West Virginia:

That §31A-2A-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2A. MAXWELL GOVERNMENTAL ACCESS TO FINANCIAL RECORDS ACT.


1 As used in this article:

2 (a) “Customer” means any person or his or her duly authorized representative who has transacted business
with or has used the services of a financial institution or
for whom a financial institution has acted as a fiduciary in
relation to an account maintained in such person’s name;

(b) “Financial institution” means a bank, a savings and
loan association, a trust company or a credit union
chartered pursuant to any state or federal law, a regulated
consumer lender licensed under article four, chapter forty-
six-a of this code, a mortgage lender broker or servicer
licensed under article seventeen, chapter thirty-one of this
code, a money service business licensed under article two,
chapter thirty-two-a of this code or other institutions
which are by law under the jurisdiction and supervision of
the Commissioner of Banking;

(c) “Financial record” means the original or a copy of
any record or document held by a financial institution
pertaining to a customer of the financial institution,
including any record of a transaction conducted by means
of a customer bank communication terminal or other
electronic device. “Financial record” also means any
information derived from such records or documents;

(d) “Investigation” includes, but is not limited to, any
inquiry by a state or local law-enforcement officer, sheriff
or prosecuting attorney or any inquiry made by a state or
local governmental entity for the purpose of determining
whether there has been a violation of any law which is
punishable by imprisonment or by a fine or other mone-
tary liability;

(e) “Person” means an individual, partnership, corpora-
tion, limited liability company, association, trust or any
other legal entity;

(f) “State entity” means any state or local governmental
office, officer, department, division, bureau, board or
commission, including the Legislature, and any other state
or local government agency of West Virginia, its political subdivisions and any agent thereof; and

(g) "Subpoena" includes a subpoena duces tecum or any other lawful subpoena to compel testimony or the disclosure or production of documents.
The 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 is approved this the 30th Day of April, 2009.

Governor
PRESENTED TO THE GOVERNOR

APR 27 2009

Time 2:15 pm