WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2012

ENROLLED

House Bill No. 4274

(By Delegates Moore, Reynolds and Azinger)

Passed March 9, 2012

To Take Effect Ninety Days From Passage
AN ACT to amend and reenact §46A-4-103 of the Code of West Virginia, 1931, as amended, relating to the authority of the Commissioner of Banking over regulated consumer lender licensees; authorizing the commissioner to impose a fine or penalty upon a licensee for violation of chapter forty-six-a or chapter thirty-one-a of this Code or any other law or rule that the Division of Banking is authorized to enforce that is applicable to regulated consumer lenders; and providing for an administrative hearing to contest a fine or penalty.

Be it enacted by the Legislature of West Virginia:

That §46A-4-103 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. REGULATED CONSUMER LENDERS.

§46A-4-103. Revocation, suspension or forfeiture of license.

(a) The commissioner may issue to a person licensed to make regulated consumer loans an order to show cause why his or her license should not be revoked or should not be suspended for a period not in excess of six months. The
order shall state the place for a hearing and set a time for the
hearing that is no less than ten days from the date of the
order. After the hearing the commissioner shall revoke or
suspend the license if he or she finds that:

(1) The licensee has repeatedly and willfully violated this
chapter or any rule or order lawfully made or issued pursuant
to this article;

(2) The licensee has failed to remit their required annual
assessment, or to maintain their status as a business in good
standing with the office of the Secretary of State,
notwithstanding notification in writing by the commissioner
sent by certified mail to the licensee's last known address
providing for thirty days to rectify such failure;

(3) The licensee has forfeited their license by failing to
remain open for regulated consumer lending business in
conformity with the rules or order of the commissioner; or

(4) Facts or conditions exist which would clearly have
justified the commissioner in refusing to grant a license had
these facts or conditions been known to exist at the time the
application for the license was made.

(b) No revocation or suspension of a license under this
article is lawful unless prior to institution of proceedings by
the commissioner notice is given to the licensee of the facts
or conduct which warrant the intended action, and the
licensee is given an opportunity to show compliance with all
lawful requirements for retention of the license.

(c) If the commissioner finds that probable cause for
revocation of a license exists and that enforcement of this
article requires immediate suspension of the license pending
investigation, he or she may, after a hearing upon five days'
written notice, enter an order suspending the license for not more than thirty days.

(d) Nothing in this section limits the authority of the commissioner to take action against a regulated consumer lender pursuant to chapter thirty-one-a of this code.

(e) Whenever the commissioner revokes or suspends a license, he or she shall enter an order to that effect and forthwith notify the licensee of the revocation or suspension. Within five days after the entry of the order he or she shall mail by registered or certified mail or deliver to the licensee a copy of the order and the findings supporting the order.

(f) Any person holding a license to make regulated consumer loans may relinquish the license by notifying the commissioner in writing of its relinquishment, but this relinquishment shall not affect his or her liability for acts previously committed.

(g) No revocation, suspension, forfeiture or relinquishment of a license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any consumer.

(h) The commissioner may reinstate a license, terminate a suspension or grant a new license to a person whose license has been revoked or suspended if no fact or condition then exists which clearly would have justified the commissioner in refusing to grant a license.

(i) In addition to the authority authorized by this section, the commissioner may impose a fine or penalty not exceeding $2,000 upon any regulated consumer lender required to be licensed under this article who violates this chapter, chapter thirty-one-a or any other law or rule that the Division of
Banking is authorized to enforce with respect to companies licensed under this article. For the purposes of this section, each day, excluding Sundays and holidays, that an unlicensed person engages in the business or holds himself or herself out to the general public as a licensed consumer lender is a separate violation and, as such, each day is subject to the maximum fine of $2,000 per day. Any fine or penalty imposed under this subsection may be contested by the licensee pursuant to article five, chapter twenty-nine-a of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]
Chairman, House Committee
Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

[Signatures]
Clerk of the House of Delegates
Clerk of the Senate

Speaker of the House of Delegates
President of the Senate

The within is approved this the 30th day of [Month], 2012.

[Signature]
Governor
PRESENTED TO THE GOVERNOR

MAR 26 2012

10:00 AM