WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2015

ENROLLED

House Bill No. 2926

(By Delegate(s) Folk,
Ashley and Walters)

Passed March 14, 2015

In effect ninety days from passage.
AN ACT to amend and reenact §46A-3-114 of the Code of West Virginia, 1931, as amended, relating to modification charges in connection with a real estate secured consumer credit sale or consumer loan; and providing for a minimum and maximum modification charge that may be collected.

Be it enacted by the Legislature of West Virginia:

That §46A-3-114 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.

§46A-3-114. Deferral and modification charges.

1 (1) With respect to a precomputed consumer credit sale or consumer loan, refinancing or consolidation, the parties before
or after default may agree in writing to a deferral of all or part of
one or more unpaid installments, and the seller or lender may
make and collect a deferral charge not exceeding the amount of
the sales finance charge or loan finance charge attributable to the
first of the deferred monthly installment periods multiplied by
number of months in the deferral period (the period in which no
payment is required or made by reason of a deferral): Provided,
That no installment on which a delinquency charge has been
collected or partial payment made shall be deferred unless the
amount of the delinquency charge or partial payment is first
applied to the deferral charge. If prepayment in full occurs
during a deferral period, the portion of the deferral charge
attributable to the unexpired full months in the deferral period
shall be also rebated.

(2) The seller or lender, in addition to the deferral charge,
may make appropriate additional charges, and the amount of
these charges which is not paid in cash may be added to the
amount deferred for the purpose of calculating the deferral
charge.

(3) The parties may agree in writing at the time of a
precomputed consumer credit sale or consumer loan, refinancing
or consolidation that if an installment is not paid within ten days
after its due date as originally scheduled or as deferred, the seller
or lender may unilaterally grant a deferral and make charges as
provided in this section. No deferral charge may be made for a
period after the date on which the seller or lender elects to
accelerate the maturity of the agreement.

(4) With respect to a real estate secured consumer credit sale
or consumer loan, the parties before or after default may agree
in writing to a modification or amendment of, or allonge to, the
consumer credit sale or consumer loan, and the seller or lender
may make and collect a modification charge equal to the greater
of $250 or one percent of the outstanding balance of the
consumer credit sale or consumer loan at the time of the
modification, amendment or allonge: Provided, That no
modification charge may be made where prohibited by federal
law or regulation.

(5) The commissioner shall prescribe by rule the method or
procedure for the calculation of deferral charges consistent with
the other provisions of this chapter where the precomputed
consumer credit sale or consumer loan is payable in unequal or
irregular installments.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within ___ approved ___ this the ___ day of ___ April ___ 2015.

Governor
PRESENTED TO THE GOVERNOR

MAR 30 2015

Time 3:52 pm