WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WV Lending and Credit Rate Board TITLE NUMBER: 108

RULE TYPE: Procedural Rule ; CITE AUTHORITY WV Code §6-9A-3 and 47A-1-4

AMENDMENT TO AN EXISTING RULE: YES X NO___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Procedural Rules of the West Virginia Lending and Credit Rate Board

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: ___

TITLE OF RULE BEING PROPOSED: ___

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON March 26, 1993 AT 5:00 pm. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

WV Division of Banking
State Capitol Complex
Building #3 Room 311
Charleston, WV 25305
ATTN: Rate Board Rule

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

3.80

West Virginia

DEPARTMENT OF COMMERCE,
LABOR & ENVIRONMENTAL RESOURCES
OFFICE OF THE SECRETARY

State Capitol Charleston, West Virginia 25305 304/348-3255

January 27, 1993

Sharon Bias, Commissioner
Division of Banking
Building 3, Room 311
State Capitol Complex
Charleston, West Virginia 25305

RE: Proposed Procedural Rules - Title 108, Series 1 (West Virginia Lending & Credit Rate Board)

Dear Sharon:

Pursuant to West Virginia Code §5F-2-2(a)(12), I hereby consent to the proposal of the rules specified above.

You may attach a copy of this letter to your filing with the Secretary of State as evidence of my consent.

Sincerely yours,

John M. Ranson

John M. Ranson
Cabinet Secretary

JMR:cjb
T:RUL-BANK.93'

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Procedural Rules of the West Virginia Lending & Credit Rate Board

Type of Rule: ____ Legislative ____ Interpretive X Procedural

Agency West Virginia Lending Credit Rate Board Address WV Division of Banking, State Capitol Complex, Bldg. 3, Rm. 311, 1900 Kan. Blvd., E. Chas., WV 25305-0240

1. Effect of Proposed Rule	ANNUAL Increase	Decrease	FISCAL YEAR Current	Next	Thereafter
Estimated Total Cost	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

N/A

3. Objectives of these rules:

To establish procedure for changing the alternative maximum rate of interest and finance charge, including when motions or petitions must be filed and when hearings are to be held to consider a change in the alternative maximum rate of interest and finance charge.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

None.

C. Economic Impact on Citizens/Public at Large.

None.

Date: 1-12-93

Signature of Agency Head or Authorized Representative

Sharon S. Bis

TITLE 108
SERIES 1
PROCEDURAL RULES
WV LENDING AND CREDIT RATE BOARD

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SUMMARY OF PROPOSED
PROCEDURAL RULE AMENDMENTS

The purpose of the proposed rule amendment is to establish the procedure for consideration and adoption of the alternative maximum rate of interest and finance charge by the West Virginia Lending and Credit Rate Board, including when motions or petitions must be filed and when hearings are to be held to consider such proposed changes.

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OFFICE OF WEST VIRGINIA SECRETARY OF STATE

TITLE 108
PROCEDURAL RULES
WEST VIRGINIA LENDING AND CREDIT RATE BOARD

SERIES 1
PROCEDURAL RULES OF THE WEST VIRGINIA LENDING AND CREDIT RATE BOARD

~~Section 1.~~§108-1-1. General

~~1.01~~1.1. Scope and Purpose. -- These regulations establish general rules pertaining to regular meetings, special meetings, and emergency interim meetings of the West Virginia Lending and Credit Rate Board and govern the procedure for establishing the alternative maximum rate of interest and finance charge by the West Virginia Lending and Credit Rate Board.

~~1.02~~1.2. Authority. -- ~~These regulations are issued under authority of West Virginia Code, Chapter 6, Article 9A, Section 3~~ W. Va. Code §§ 6-9A-3 & 47A-1-4.

~~1.03~~1.3. Filing Date. -- ~~These regulations are promulgated on the 1st of December, 1981, and filed on the 2nd of December, 1981 in the Office of the Secretary of State.~~

~~1.04~~1.4. Effective Date.-- ~~These regulations become effective on the 2nd of January, 1982.~~

~~Section 2~~§108-1-2. Scheduling of Regular Meetings and Emergency Meetings.

~~2.01~~2.1. Regular Meetings -- The regular meetings of the West Virginia Lending and Credit Rate Board (hereinafter referred to as the "Board") shall be held on the first Tuesday ~~of the months of March, June, September, and December~~ in April and October. If the first Tuesday ~~of one of the aforementioned months~~ in April or October is a legal holiday, then the regular meeting shall be held on the first Wednesday of that month. The time and place of all regular meetings shall be determined by the Board. Notice of the time and place of all regular meetings shall be filed in the Office of the Secretary of State not less than ten (10) nor more than thirty (30) days prior to the date fixed.

~~2.02~~2.2 Special Meetings -- Special meetings of the ~~West Virginia Lending and Credit Rate~~ Board shall be called by the chairperson or upon the ~~request~~ written motion of at least five (5) members of the Board. The Board shall have the authority to change the alternative maximum rate of interest and finance charge at a special meeting called in accordance with this subsection and preceded by a hearing held in accordance with subsection 3.2 of this rule. Notice of the time, place and purpose of all special meetings shall be filed in the Office of the Secretary of State not less than ten (10) nor more than thirty (30) days prior to the date fixed.

~~2.03~~2.3. Emergency Meetings -- In the event of an emergency requiring immediate official action by the ~~West Virginia Lending and Credit Rate~~ Board, an emergency interim meeting of the Board shall be called by the chairperson or upon the request of at least three (3) members of the Board. The Board shall have the authority to change the alternative maximum rate of interest and finance charge at an emergency interim meeting called in accordance with the provisions of W. Va. Code § 47A-1-1(h) and this subsection. Notice of the time, place and purpose of such an emergency meeting ~~need not~~ shall be filed in the Office of the Secretary of State no later than ten (10) days prior to the emergency interim meeting.

~~2.04~~2.4. Quorum - Five (5) of the members of the ~~West Virginia Lending and Credit Rate~~ Board shall constitute a quorum and a majority vote of the quorum shall be necessary to pass upon all matters that come before the Board.

~~2.05~~2.5. Agenda - The chairperson of the ~~West Virginia Lending and Credit Rate~~ Board is responsible for preparing the agenda for each meeting of the Board. For regular ~~and special~~ meetings of the Board, all communications, requests, reports, and other items must be received in the Commissioner of Banking's office at least ~~thirty (30)~~ fifteen (15) days prior to the Board meeting for which they are proposed for the agenda. Persons who are not members of the Board or its staff may, with the prior approval of the chairperson of the Board, address the Board on such topics and for a period of time as authorized by the chairperson of the Board, provided such oral presentations are accompanied by a written statement. With the approval of the chairperson or the Board, the written statement requirement may be waived.

~~2.06~~2.6. Visitors and Observers - Visitors and observers at Board meetings shall be seated in an area designated by the chairperson of the ~~West Virginia Lending and Credit Rate~~ Board. The number of persons to be admitted shall be determined by the chairperson in accordance with available facilities.

~~2.07~~2.7. Minutes - Following each Board meeting, the chairperson shall provide a draft set of minutes to members of the Board. The draft minutes shall be on the agenda for action at the next meeting of the Board.

§108-1-3. Establishing Alternative Maximum Rate of Interest and Finance Charges.

3.1. Motion/Petition for Change in Rate.

Any member of the Board, wishing to initiate a change in the alternative maximum rate of interest and finance charge, shall file a written motion, proposing the change in the alternative maximum rate of interest and finance charge, with the chairperson of the Board no later than the fifteenth day of February, in order for the motion to be considered and voted upon at the Board meeting to be held on the first Tuesday in April and no later than the fifteenth day of August in order for the motion to be considered and voted upon at the Board meeting to be held on the first Tuesday in October.

Any other petition requesting that the Board consider a change in the alternative maximum rate of interest and finance charge, must be filed in writing with the Commissioner of Banking no later than the fifteenth day of February in order for the petition for change to be considered and voted upon at the Board meeting to be held on the first Tuesday in April and no later than the fifteenth day of August in order for the petition for change to be considered and voted upon at the Board meeting to be held on the first Tuesday in October.

For purposes of this subsection, a motion or petition to consider a change in the alternative maximum rate of interest and finance charge is timely filed if actual delivery of the motion or petition is made to the chairperson of the Board at the offices of the West Virginia Division of Banking on or before the February or August deadline contained in this subsection. If the motion or petition is to be delivered by mail, it is timely filed if it is properly addressed to the chairperson of the Board, postage prepaid and postmarked on or before the February or August deadline contained in this subsection. The correct address of the chairperson of the Board is: Chairperson, West Virginia Lending and Credit Rate Board, West Virginia Division of Banking, Building 3, Room 311, State Capitol Complex, 1900 Kanawha Boulevard East, Charleston, West Virginia 25305-0240.

Should the February or August deadline for filing a motion or petition to change the alternative rate of interest and finance charge fall on a Saturday, Sunday or legal holiday, the following day not a Saturday, Sunday or legal holiday shall be the day intended to be the deadline.

3.2. Hearing Required.

No change in the alternative maximum rate of interest and finance charge shall be effective unless a hearing is held on the matter, provided, that no hearing is required to be held in the case of a change in the alternative maximum rate of interest and finance charge made pursuant to an emergency interim meeting called in accordance with West Virginia Code §47A-1-1 et seq. and this rule. At a hearing called pursuant to this subsection, all interested parties shall be given an opportunity to be heard and testify and submit information relevant to the matter.

Upon receipt of a motion by a Board member or any other petition proposing a change in the alternative maximum rate of interest and finance charge, filed in accordance with West Virginia Code §47A-1-1 et. seq. and this rule, the chairperson of the Board shall schedule a public hearing at least fifteen days prior to the Board meeting at which the proposed changes will be voted upon by the Board. The Commissioner shall give notice to all interested parties and allow for the presentation of evidence and testimony at the public hearing. Notice of the scheduled hearing shall be issued and disseminated to the public at least twenty days prior to the scheduled date of the hearing.

In the case of an emergency interim meeting, held in accordance with the provisions of West Virginia Code §47A-1-1(h) and this rule, the chairperson of the Board shall give ten days' notice of the scheduled emergency interim meeting to the public. All interested parties shall have the opportunity to be heard and to submit relevant information at the emergency interim meeting.

3.3. Presentation of Information at Hearing.

The chairperson of the Board has the authority to limit the amount of time each person may use to present information.

§108-1-4. Meeting Not Required.

Notwithstanding any other provisions of West Virginia Code §47A-1-1 et seq. or this rule, the Board shall not be required to meet if no petition or written motion has been filed with the board requesting a hearing and interest rates and economic conditions have not changed sufficiently to indicate that any change in the existing rate order would be required, and there are not at least two board members who concur that a meeting of the board is necessary. If the board does not meet, the maximum rates of interest and finance charges prescribed by the board in the existing rate order shall remain in full force and effect until the next time the Board meets and prescribes different maximum rates of interest and finance charges.