WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

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OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

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

CITE AUTHORITY: WV Code §6-9A-3 and 47A-1-4

RULE TYPE: PROCEDURAL X INTERPRETIVE ____

EXEMPT LEGISLATIVE RULE ____
CITE STATUTE(s) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

____

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 ADOPTED: ____

TITLE OF RULE BEING ADOPTED: ____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS May 16, 1993

Sharon L. Bias

FILED

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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.~~ April 16, 1993.

~~1.04~~1.4. Effective Date.-- ~~These regulations become effective on the 2nd of January, 1982.~~ May 16, 1993.

~~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, except in the case of an emergency interim meeting, 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.

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

SUMMARY OF ADOPTED
PROCEDURAL RULE AMENDMENTS

The purpose of the procedural rule amendments 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 hearing are to be held to consider such proposed changes.

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

HEARINGS AND COMMENTS

The proposed amendments to the rule was filed for publication with the WV Secretary of State on February 17, 1993. Comments were requested on the proposed rule by March 26, 1993 at 5:00 pm. No comments were received.

On April 6, 1993 the West Virginia Lending and Credit Rate Board held its regular meeting open to the public, and at which the proposed rule was on the agenda for discussion and adoption. Notice of the meeting and its agenda was filed with the WV Secretary of State on March 15, 1993. No member of the public appeared at the meeting to make any comments on the rule.

Following discussion by the Board and the adoption of a technical amendment, the proposed rule was adopted by voice vote. Board member Larrie Bailey having spoken and voted against the rule.

DIVISION OF BANKING

Building #3, Room 311 • State Capitol Complex • 1900 Kanawha Blvd., East • Charleston, WV 25305-0240 • (304) 558-2294 FAX: (304) 558-0442

WEST VIRGINIA LENDING AND CREDIT RATE BOARD

NOTICE OF PUBLIC MEETING

The West Virginia Lending and Credit Rate Board shall convene a public meeting at 2:00 p.m., on Tuesday, April 6, 1993 in the West Virginia Division of Banking's Conference Room, Building #3, Room 302, Capitol Complex, Charleston, West Virginia. This is a regular meeting of the board. Matters to be considered include:

* Review of applicability of Orders of the West Virginia Lending and Credit Rate Board.
* Financial Institutions Interest Rate Survey conducted the week of March 8, 1993
* Final review and approval of the Board's Procedural Rules as amended.

Sharon G. Bias
Sharon G. Bias, Chairperson
West Virginia Lending and Credit Rate Board
March 15, 1993

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

AMENDMENT TO THE PROPOSED RULE

The Board approved a technical amendment to the rule adding the phrase "except in the case of an emergency interim meeting" in the first sentence of the second paragraph of §3.2. The purpose and effect of this amendment was to clarify and make it consistent with the intent of the section as stated in the first paragraph to §3.2.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer help we can get)

FAX: (304) 558-0900

TO: Sharon Bias

AGENCY: Lending & Credit Rate Bd.

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: July 12, 1993

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 1 TITLE: 108 Lending & Credit Rate Bd.

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: ______

TITLE OF PERSON SIGNING: ______

DATE: ______

****

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Timothy C. Dunlow

TITLE OF PERSON SIGNING: General Counsel

DATE: 7/15/93

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.