

*Title 106*  
LEGISLATIVE RULES

~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~  
Commissioner of Banking

~~West Virginia Code 31A-2-4(c)(II)~~  
Series ~~II~~ 2  
~~(1981)~~

Subject: Regulations Pertaining to the West Virginia Consumer Credit and Protection Act and the Industrial Bank and Industrial Loan Company Act.

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INDEX

Section 1. General

- 1.01 Scope
- 1.02 Authority
- 1.03 Effective Date
- 1.04 Filing Date

Section 2. Dual Authority

- 2.01 Dual Business Authority Defined
- 2.02 Notice
- 2.03 Organization and Records
- 2.04 Allocation of Expenses
- 2.05 Limitation on Security Interest in Real Estate
- 2.06 Related Transactions
- 2.07 Refinancing of an Existing Contract

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~~West Virginia Code 31A-2-4(c)(11)~~  
Series ~~212~~  
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Subject: Regulations Pertaining to the West Virginia Consumer Credit and Protection Act and the Industrial Bank and Industrial Loan Company Act.

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Section 1. General

1.01. Scope - These regulations establish general rules implementing and supplementing the West Virginia Consumer Credit and Protection Act and the Industrial Bank and Industrial Loan Company Act.

1.02. Authority - These regulations are issued under authority of West Virginia Code, §31A-2-4(c)(11).

1.03. Effective Date - November 7, 1981.

1.04. Filing Date - October 7, 1981.

Section 2. Dual Authority

2.01. Dual Business Authority Defined

Dual Business Authority shall be defined as conducting one or more authorized businesses such as an Industrial Loan Company, an Industrial Bank, or a Secondary Mortgage Lender or Broker within the same office, room, or place of business as a Supervised Lender.

2.02. Notice

Any Industrial Loan Company, Industrial Bank, Supervised Lender, or Secondary Mortgage Lender or Broker desiring to operate under dual business

authority shall provide 30 days written notice to the Commissioner which notice shall contain the name of the financial institutions desiring to operate under such authority and the address of the place of business.

2.03. Organization and Records

Each financial institution operating under Dual Business Authority shall maintain separate books and records for each business. All records must be maintained in conformity with generally accepted accounting principles and practices in a manner which will enable the Commissioner of Banking to determine whether the financial institution is complying with the provisions under which the License or Certificate of Authority was issued.

2.04. Allocation of Expenses

The expenses of the institutions operating under Dual Business Authority will be proportioned between them according to generally accepted accounting principles semiannually as of June 30 and December 31 of each calendar year but more frequently at the discretion of the institutions if they so desire.

2.05. Limitation on Security Interest in Real Estate

A loan in an original amount of \$1,600 or less shall not be secured by an interest in real estate.

2.06. Related Transactions

A Supervised Lender, Industrial Loan Company, Industrial Bank or Secondary Mortgage Lender or Broker shall not make a supervised loan or industrial loan or secondary mortgage loan to the same borrower as a part of the same (or related) financing transaction(s). None of the lenders may make two loans for

the purpose of obtaining a higher rate of interest or higher amount of charges than would be obtained by the making of a single loan of the same total. This subsection does not prohibit the same borrower from being extended multiple loans, so long as the purpose of the lender is not to evade this regulation.

2.07. Refinancing of an Existing Contract

When refinancing of an existing contract by either a supervised lender, industrial loan company, or a secondary mortgage lender or broker should occur, then the rate of interest charged shall not exceed the rate currently authorized under State Law for that certain loan. Under no circumstances can a loan be transferred (purchased or refinanced) from an industrial loan company or secondary mortgage lender or broker to a related or affiliated supervised lender operating under Dual Business Authority for the purpose of obtaining a higher rate of interest, unless a reasonable benefit accrues to the consumer.