

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In this Box

**FILED**

**JUL 28 3 33 PM '95**

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: WV Division of Banking TITLE NUMBER: 106

CITE AUTHORITY WV Code 31A-2-4(c)(11)

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: Regulations Pertaining to the WV Consumer  
Credit and Protection Act and the Industrial Bank and Industrial Loan  
Company Act

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Sham S. Bed

4.00



**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

**CONSENT TO FILE RULE**

July 25, 1995

TO WHOM IT MAY CONCERN:

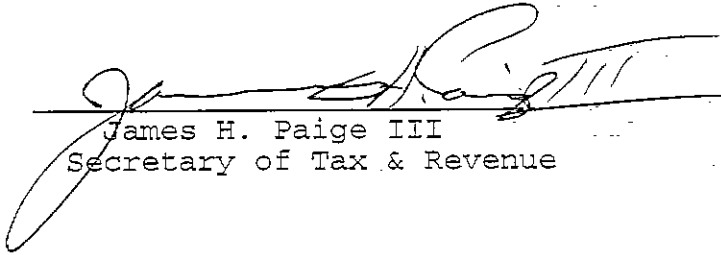
Title of Rule: Regulations Pertaining to the WV Consumer Credit  
& Protection Act and Industrial Loan Company Act

Title Number: 106

Series Number: 2

Pursuant to West Virginia Code §§ 5F-2-2(a) and 64-7-4(c), the undersigned hereby consents to the filing of the foregoing rule.

Signed this 26th day of July, 1995.

  
James H. Paige III  
Secretary of Tax & Revenue



## DIVISION OF BANKING

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COMMISSIONER OF BANKING  
REGULATIONS PERTAINING TO THE WEST VIRGINIA  
CONSUMER CREDIT AND PROTECTION ACT  
AND THE INDUSTRIAL LOAN COMPANY ACT  
106 CSR 2

### Statement of Circumstances

The proposed amendments to this legislative rule are required by amendments to the West Virginia Code which have altered the loan limit for supervised lenders and deleted the authority to create Industrial Banks. These changes need to be reflected in the rule to make it consistent with the statutory changes.

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

**Rule Title:** Regulations Pertaining to the WV Consumer Credit & Protection Act and the Industrial Loan Company Act

**Type of Rule:**  **Legislative**     **Interpretive**     **Procedural**

**Agency** WV Division of Banking

**Address** State Capitol Complex  
Bldg. 3, Rm. 311  
Charleston, WV 25305

**1. Effect of Proposed Rule**

	ANNUAL FISCAL YEAR				
	DECREASE	DECREASE	CHARGE	NET	INCREASE
<b>ESTIMATED TOTAL COST</b>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	-	-	-	-	-
CURRENT EXPENSE	-	-	-	-	-
REPAIRS & ALTERNATIONS	-	-	-	-	-
EQUIPMENT	-	-	-	-	-
OTHER	-	-	-	-	-

**2. Explanation of above estimates:**

The rule merely deletes obsolete reference to industrial banks and conforms rule to statutory change in supervised lender loan limit.

**3. Objectives of these rules:**

To delete obsolete reference to industrial banks and to conform the rule to the code.

**Rule Title:** Regulations Pertaining to the WV Consumer Credit & Protection Act and the Industrial Loan Company Act -- 106 CSR 2

**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:**

June 19, 1995

**Signature of Agency Head or Authorized Representative**

Sharon S. Bias

DATE: July 28, 1995

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Timothy Winslow  
General Counsel  
WV Division of Banking

LEGISLATIVE RULE TITLE: Regulations Pertaining to the WV Consumer Credit and Protection Act and the Industrial Bank and Industrial Loan Company Act

1. Authorizing statute(s) citation WV Code 31A-2-4(c)(11)
  
2. a. Date filed in State Register with Notice of ~~Hearing~~ Comment Period June 22, 1995
  
- b. What other notice, including advertising, did you give of the hearing?  
Sent to each person/business on the WV Division of Banking's "Official Notification" list.
  
- c. Date of ~~Hearing(s)~~ Comment Period June 22, 1995 to July 24, 1995
  
- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.  
Attached \_\_\_\_\_ No comments received X
  
- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)  
July 28, 1995
  
- f. Name and phone number(s) of agency person(s) to contact for additional information:  
Timothy Winslow 558-2294

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A



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REGULATIONS PERTAINING TO THE WEST VIRGINIA  
CONSUMER CREDIT AND PROTECTION ACT  
AND THE INDUSTRIAL LOAN COMPANY ACT ...  
106 CSR 2

### Summary of Proposed Rule Amendments

The proposed amendments to this legislative rule are required in part by amendments to the West Virginia Code which have altered the amount a supervised lender may loan to \$2000 [See W. Va. Code §46A-1-102(48)].

The rule also needs to reflect that the Code no longer provides for the establishment of Industrial Banks, and no such banks now exist. Thus reference to them is only confusing and should be deleted. [See W. Va. Code §§31-7-2 note].

TITLE 106  
LEGISLATIVE RULES  
COMMISSIONER OF BANKING

FILED

JUL 28 3 33 PM '95

SERIES 2  
REGULATIONS PERTAINING TO THE WEST VIRGINIA  
CONSUMER CREDIT AND PROTECTION ACT  
AND THE ~~INDUSTRIAL BANK AND~~ INDUSTRIAL LOAN COMPANY ACT

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

§106-2-1. General.

1.1. 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.

1.2. Authority. -- W. Va. Code §31A-2-4(c)(11)

1.3. Filing Date. -- ~~October 7, 1981~~

1.4. Effective Date. -- ~~November 7, 1981~~

§106-2-2. Dual authority.

2.1. 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.

2.2. Notice.

Any industrial loan company, ~~industrial bank~~, supervised lender or secondary mortgage lender or broker desiring to operate under dual business authority shall provide thirty (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.

2.3. 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.

2.4. 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.

2.5. Limitation on security interest in real estate.

A loan by a supervised lender in an original amount of ~~one~~ two thousand ~~six hundred~~ dollars ~~(\$1,600)~~ (\$2,000) or less shall not be secured by an interest in real estate.

2.6. 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 (2) 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.

2.7. 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 a Dual Business Authority for the purpose of obtaining a higher rate of interest, unless a reasonable benefit accrues to the consumer.



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REGULATIONS PERTAINING TO THE WEST VIRGINIA  
CONSUMER CREDIT AND PROTECTION ACT  
AND THE INDUSTRIAL LOAN COMPANY ACT  
106 CSR 2

### Comments Received

No comments were received on this proposed amended rule.

### Amendments Made to Proposed Rule

No amendments were made to the proposed rule as initially presented for comment.