

FILED

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

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #4

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: WV Division of Banking TITLE NUMBER: 106

CITE AUTHORITY WV Code § 31A-2-4(c)(11) and 31-7-26

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 Compoany Act

IF NO, SERIES OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE
LEGISLATIVE RULE MAKING COMMITTEE IS HEREBY MODIFIED AS A RESULT OF
REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE.
THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Sharon S. Bids



DIVISION OF BANKING

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

CONSENT TO FILE RULE

November 20, 1995

TO WHOM IT MAY CONCERN:

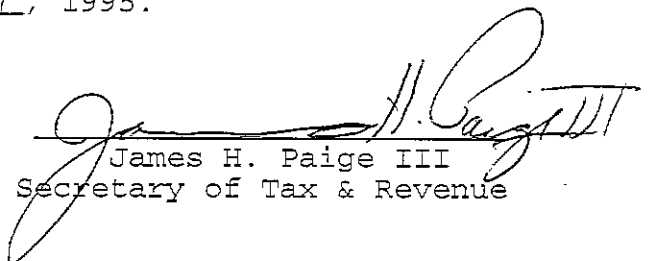
Title of Rule: Regulations Pertaining to the WV Consumer Credit
& Protection Act and Industrial Loan Company Act

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 27 day of November, 1995.


James H. Paige III
Secretary of Tax & Revenue

TITLE 106
LEGISLATIVE RULES
COMMISSIONER OF BANKING

SERIES 2

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

§106-2-1. General.

1.1. Scope. -- ~~These regulations~~ This rule establishes general ~~rules provisions~~ 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) and 31-7-26

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~~ means 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 ~~will~~ shall 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 principal 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 rule.

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~~ occurs, 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.



FILED

Nov 27 2 13 PM '95

West Virginia Legislature
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Room MB47-State Capitol
Charleston, West Virginia 25305
(304) 347-4840

Senator Mike Ross, Co-Chair
Delegate Vickie Douglas, Co-Chair

Debra A. Graham, Counsel
Joe Altizer, Associate Counsel
Marie Nickerson, Admr. Assistant

November 15, 1995

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Ms. Sharon Bias
Division of Banking
Bldg. 3, Room 311
Capitol Complex
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

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

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency X
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
- 5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Timothy Winslow
General Counsel

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