

FILED

WEST VIRGINIA  
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

) Do Not Mark In This Box  
) APR 4 11 29 AM '96  
) OFFICE OF WEST VIRGINIA  
) SECRETARY OF STATE

Form #6

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE

AGENCY: WV Division of Banking TITLE NUMBER: 106

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 OF NEW RULE BEING PROPOSED: \_\_\_\_\_

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

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 171

SECTION 64-7-1(e), PASSED ON March 7, 1996

THIS RULE IS FILED WITH THE SECRETARY OF STATE, THIS RULE BECOMES EFFECTIVE  
ON THE FOLLOWING DATE: May 1, 1996

Sharon S. Bein  
AUTHORIZED SIGNATURE

2.60

FILED

TITLE 106  
LEGISLATIVE RULES  
COMMISSIONER OF BANKING

APR 4 11 29 AM '96

SERIES 2  
RULES PERTAINING TO THE WEST VIRGINIA  
CONSUMER CREDIT AND PROTECTION ACT  
AND THE INDUSTRIAL LOAN COMPANY ACT

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§106-2-1. General.**

1.1. Scope. -- This rule establishes general provisions implementing and supplementing the West Virginia Consumer Credit and Protection Act and the Industrial Loan Company Act.

1.2. Authority. -- W. Va. Code §§31A-2-4(c)(11) and 31-7-26.

1.3. Filing Date. -- April 4, 1996

1.4. Effective Date. -- May 1, 1996

**§106-2-2. Dual authority.**

2.1. Dual business authority defined.

"Dual Business Authority" means conducting one or more authorized businesses such as an industrial loan company, 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, 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 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 two thousand dollars (\$2,000) or less shall not be secured by an interest in real estate.

#### 2.6. Related transactions.

A supervised lender, industrial loan company, 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 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 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.

4239

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H. B. 4239

(By Delegates Douglas, Gallagher, Faircloth, Compton,  
Linch and Riggs)

(Introduced January 29, 1996; referred to the  
Committee on Banking and Insurance then the Judiciary.)

106-2

A BILL to amend and reenact section two, article seven,  
chapter sixty-four of the code of West Virginia, one  
thousand nine hundred thirty-one, as amended, relating  
to authorizing the division of banking to promulgate  
legislative rules relating to the West Virginia  
consumer credit and protection act and the industrial  
bank and industrial loan company act.

Be it enacted by the Legislature of West Virginia:

That section two, article seven, chapter sixty-four of  
the code of West Virginia, one thousand nine hundred  
thirty-one, as amended, be amended and reenacted, to read  
as follows:

ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE  
TO PROMULGATE LEGISLATIVE RULES.

§64-7-2. Division of banking.

4239

1           (a) The legislative rules filed in the state register  
2 on the twelfth day of August, one thousand nine hundred  
3 ninety-four, authorized under the authority of section  
4 twenty-six, article four, chapter thirty-one-a, modified by  
5 the division of banking to meet the objections of the  
6 legislative rule-making review committee and refiled in the  
7 state register on the second day of November, one thousand  
8 nine hundred ninety-four, relating to the division of  
9 banking (legal lending limit, 106 CSR 9), are authorized.

10           (b) The legislative rules filed in the state register  
11 on the twelfth day of August, one thousand nine hundred  
12 ninety-four, authorized under the authority of section  
13 thirty-three, article four, chapter thirty-one-a, relating  
14 to the division of banking (notice and treatment of joint  
15 accounts, 106 CSR 17), are authorized.

16           (c) The legislative rules filed in the state register  
17 on the twenty-eighth day of July, one thousand nine hundred  
18 ninety-five, authorized under the authority of section  
19 twenty-six, article seven, chapter thirty-one, of this  
20 code, modified by the division of banking to meet the  
21 objections of the legislative rule-making review committee  
22 and refiled in the state register on the first day of  
23 December, one thousand nine hundred ninety-five, relating  
24 to the division of banking (West Virginia consumer credit

1 and protection act and the industrial bank and industrial  
2 loan company act, 106 CSR 2), are authorized.

3

4 NOTE: The purpose of this bill is to authorize the  
5 Division of Banking to promulgate legislative rules  
6 relating to the West Virginia Consumer Credit and  
7 Protection Act and the Industrial Bank and Industrial Loan  
8 Company Act.

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10 Strike-throughs indicate language that would be  
11 stricken from the present law, and underscoring indicates  
12 new language that would be added.

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SENATE BILL NO. 170

(By Senators Ross, Anderson, Boley,  
Buckalew, Grubb and Macnaughtan)

[Introduced January 29, 1996; referred  
to the Committee on

BANKING AND INSURANCE

THE JUDICIARY

106-2

10 A BILL to amend and reenact section two, article seven,  
11 chapter sixty-four of the code of West Virginia, one  
12 thousand nine hundred thirty-one, as amended, relating  
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14 legislative rules relating to the West Virginia  
15 consumer credit and protection act and the industrial  
16 bank and industrial loan company act.

17 Be it enacted by the Legislature of West Virginia:

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22 ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE  
23 TO PROMULGATE LEGISLATIVE RULES.

24 §64-7-2. Division of banking.

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12 new language that would be added.

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

STEPHEN N. REED  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000  
FAX: (304) 558-0900



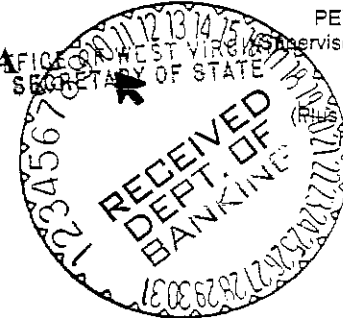
FILED

WILLIAM H. HARRINGTON  
Chief of Staff

MAY 13 2 13 PM '96

JUDY COOPER  
Director, Administrative Law

PENNEY BARKER  
Supervisor, Corporations



STATE OF WEST VIRGINIA  
OFFICE OF THE  
SECRETARY OF STATE  
SECRETARY OF STATE  
Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

(Plus all the volunteer help we can get)

TO: Timothy Winslow

AGENCY: Banking

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: May 8, 1996

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: 2 TITLE: 106 Banking

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Timothy C. Winslow

TITLE OF PERSON SIGNING: General Counsel wv008

DATE: 5/13/96

\*\*\*\*\*

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

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

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

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

STEPHEN N. REED  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000  
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WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

PENNEY BARKER  
Supervisor, Corporations

## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

(Plus all the volunteer  
help we can get)

March 12, 1996

Timothy Winslow  
Banking  
State Capitol Complex  
Bldg 3 Rm 311  
Charleston, WV 25305

**SB 171** authorizing, Title 106, Series 02, Regulations Pertaining to the WV Consumer Credit & Protection Act & the Industrial Bank & Industrial Loan Co Act passed the Legislature on **March 7, 1996**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **SB 171** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 171 Section 64-7-1(e)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

**\*\*\*IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,  
Administrative Law Division