





**DIVISION OF BANKING**

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

(304) 558-2294

**CONSENT TO FILE RULE**

July 19, 1996

TO WHOM IT MAY CONCERN:

Title of Rule: Rules Pertaining to the West Virginia Consumer Credit and Protection Act  
and the 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 so as to entirely delete and repeal the present rule.

Signed this 19 day of July, 1996.

  
\_\_\_\_\_  
James H. Paige III  
Secretary of Tax & Revenue



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

### Summary of Proposed Rules

The proposed amendments to repeal this legislative rule are offered due to amendments to the West Virginia Code which eliminate separate licensing requirements for supervised and industrial loan companies by combining them into one new Regulated Consumer Lender (RCL) license. The act repealed Chapter 31, Article 7 of the West Virginia Code relating to Industrial Loan Companies. [See W. Va. § 46A-4-101 et seq.]

Since this rule dealt with situations involving dual licensing, i.e., a lender holding both supervised and industrial loan licenses, and such dual licensing will no longer occur under the new law, the need for the rule is obviated and it is therefore being wholly deleted.



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### Statement of Circumstances

The proposed amendments to repeal this legislative rule are in response to amendments to the West Virginia Code which eliminate separate licensing requirements for supervised and industrial loan companies by combining them into one new Regulated Consumer Lender (RCL) license. The act repealed Chapter 31, Article 7 of the West Virginia Code relating to Industrial Loan Companies. [See W. Va. § 46A-4-101 et seq.]. As the rule dealt with dual licensing of lenders, i.e., a lender holding both a supervised and industrial loan licenses, and such dual licensing will no longer occur under the new law, there is no longer any need for the rule and it should be deleted.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules Pertaining to the West Virginia Consumer Credit and Protection Act and Industrial Loan Company Act [106 CSR 2]

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia Division of Banking

Address: State Capitol Complex

Building 3, Room 311

Charleston, West Virginia 25305-0240

1. Effect of Proposed Rule:

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSES	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

The deletion of the rule merely conforms it to the statute as amended.

3. Objectives of these rules:

To delete the rule as its need is obviated by statutory amendments.

Rule Title: Rules Pertaining to the West Virginia Consumer Credit and Protection Act and Industrial Loan Company Act

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: July 19, 1996

Signature of Agency Head or Authorized Representative:

Sharon L. Brea

~~TITLE 106  
LEGISLATIVE RULES  
COMMISSIONER OF BANKING~~

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

~~§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.~~