

Title 106
LEGISLATIVE RULES

~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~
Commissioner of Banking

~~West Virginia Code 31A-2-4(c)(11)~~
Series ~~I-B~~ *4*
~~(1981 Amended)~~

Subject: Regulations Pertaining to the West Virginia Consumer Credit and Protection Act.

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Subject: Regulations Pertaining to the West Virginia Consumer Credit and Protection Act.

Section 1. General

1.01. Scope - These regulations establish general rules implementing and supplementing the West Virginia Consumer Credit and Protection 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. Regulations of Supervised Lenders

2.01. Balloon Payments - Supervised loans shall not contain balloon payments.

2.02. Financial Statements

Financial statements shall be on file in the office of the licensee or at the authorized place of examination on the last day of the month for the previous month's business.

2.03. Examination Fees

Charges for examinations by the Department of Banking shall be computed on the following basis: \$25.00 for the first \$25,000.00 of outstanding loan

balances, plus \$0.40 per thousand on the remaining balance. Outstanding loan balances shall include the total of all outstanding loan contracts plus the total of all purchased consumer sales contracts, less all unearned interest, charges and discounts. Charges will be computed from the latest financial statement on file as prescribed in the previous section (2.02). If a current financial statement is not on file, the charge for the first \$25,000.00 of outstanding loan balances shall be \$50.00.

2.04. Advertising

(a) The loan ceiling of \$1,600 shall be prominently displayed at or near the entrance to the office of all licensees, except those operating under dual authority. The supervised loan ceiling of \$1,600.00 shall be shown or stated in all advertising, regardless of the media used. This provision shall apply to newspaper advertising published in this State, radio and television advertising broadcast or rebroadcast by stations operating in this State and all printed material used to solicit business for supervised lenders licensed in this State. Mailings to customers of the licensee having existing loans are exempt from this provision. Personal calling cards are also exempt from this provision if they are not used for advertising purposes.

(b) No licensee shall advertise, in any manner, that a loan of a prospective borrower with another licensee will be paid or increased if the loan is transferred to the advertising licensee.

(c) No reference to supervision or control by the State, the Attorney General, the Commissioner of Banking, the Department of Banking, or any other State Agency, shall be made in any advertising by a supervised lender. If desired, a supervised lender may advertise that he is licensed under the provisions of Article 4, Chapter 46A, of the West Virginia Code.

(d) No licensee shall advertise in any manner that may tend to confuse the identity of the licensee with any other unrelated licensee or financial organization.

(e) Each licensee shall retain a copy of all advertising for a period of two years from the date of its use. However, when two or more offices are under the same ownership or control such copy may be kept at one central office within the State.

2.05. Refinancing and Consolidation

(a) A supervised loan, whether a new loan or a loan resulting from refinancing and/or consolidation, shall not exceed \$1,600.00 for principal.

(b) Supervised lenders shall refrain from refinancing and consolidating loans and sales contracts where no reasonable benefit accrues to the consumer.

(c) Payments on a supervised loan resulting from the consolidation of sales contracts shall be deemed to apply first to the sales portion of the loan and thereafter to the loan portion.

(d) The finance charge for the loan portion of a consolidation may be computed on the maximum rates allowable for a supervised loan.

2.06. Revolving Loan Accounts

With respect to a supervised loan made pursuant to a revolving loan account, supervised lenders are authorized to contract for and receive, as a minimum charge, the charge provided for in subparagraph (c) of Chapter 46A-4-107(6).

2.07. Certain Other Charges Prohibited

(a) No licensee shall contract for or make any charge not specifically provided for in Chapter 46A, unless such charge results from a legal action.

(b) Examples of charges prohibited in (a) are, but are not limited to, the following: Collection charges, legal fees, credit reports, loan investigation fees, and appraisal fees.

2.08. Records

(a) Adequate records which will enable the Commissioner to reconcile outstanding balances shall be maintained for each licensed office.

(b) In the event ledger cards or similar records for loan accounts and installment sales contracts purchased are commingled in a licensee's files, there shall be a system by which such cards may be readily identified, one from the other, such as being of different colors or having corners of different colors. All such cards shall bear the date of the contract and shall readily identify the type of transaction reflected thereon.

(c) The ledger card shall indicate when an account has been placed for collection or legal action taken. It shall also indicate whether judgement was obtained, together with date and detail of judgement figure.

(d) On accounts prepaid in full, the ledger card shall clearly indicate the amount of unearned interest rebated and the amount of unearned insurance premium rebated, if any.

2.09. Reporting Periods

Effective December 31, 1981, all Supervised Lenders shall submit semiannual reports as of June 30 and December 31 in the form and content prescribed by the Commissioner. The reports shall be due 30 days after the close of the period.

2.10. Supervised Loans Not Precomputed

(a) With respect to a supervised loan (other than a revolving loan account) which is not precomputed, finance charges shall be computed on unpaid principal balances outstanding from time to time, for the actual time outstanding. Each payment shall be applied first to the accumulated finance charge and the remainder of the payment applied to the unpaid principal balance; provided, however, that if the amount of the payment is insufficient to pay the accumulated charge, the unpaid accumulated charge continues to accumulate to be paid from the proceeds of subsequent payments and is not added to the principal balance.

(b) Loan finance charges shall not be payable in advance or compounded; however, if part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under such new loan contract may include any unpaid loan finance charge which has accrued to the extent that such accrued charge does not exceed the unpaid principal balance of the prior loan. The resulting loan contract shall be deemed a new and separate loan transaction for all purposes.

2.11. Out-of-State Obligations

With respect to consumer credit sales or consumer loans consummated in another state, a supervised lender shall not collect or attempt to collect a sales finance charge or loan finance charge in excess of that permitted by this chapter.

2.12. Failure to do Business

Any licensee who fails to have his office open for business at least three hours per day, at least four days per week (legal holidays may be

counted as a business day), for a consecutive period of four weeks, shall be deemed to have forfeited his license. Written extensions may be obtained from the Commissioner for periods not exceeding one month upon presentation of evidence satisfactory to the Commissioner that such extensions are warranted.

2.13. Installment Sales Contracts

(a) A supervised lender may purchase installment sales contracts without regard to the amount of said contracts and without regard to whether or not a buyer on a contract may also be obligated on a supervised loan.

(b) A supervised lender may purchase installment sales contracts at any discount rate agreed upon with the seller.

(c) A supervised lender shall obtain from the seller a copy of the disclosure statement for each installment sales contract purchased and correct any bonafide errors in the computation of charges, so long as such corrections are not detrimental to the consumer.