

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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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: West Virginia Division of Banking TITLE NUMBER: 106

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

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Regulations Pertaining to the
West Virginia Consumer Credit and Protection 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.

Sharon J. Bias
Dep. Commissioner of Banking

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 106 CSR 4

Type of Rule: Legislative Interpretive Procedural

Agency West Virginia Division of Banking Address State Capitol Complex
Building 3, Room 311, Charleston, West Virginia 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ None	\$ None	\$ None	\$ None	\$ None
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

None

3. Objectives of these rules:

To bring regulations into conformity with statutes by eliminating examination fees from legislative rules.

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 11, 1991

Signature of Agency Head or Authorized Representative

Sharon J. Bias

Deputy Commissioner of Banking

TITLE 106
LEGISLATIVE RULES
COMMISSIONER OF BANKING

SERIES 4
REGULATIONS PERTAINING TO THE WEST VIRGINIA
CONSUMER CREDIT AND PROTECTION ACT

§106-4-1. General

1.1. Scope. -- These regulations establish general rules implementing and supplementing the West Virginia Consumer Credit and Protection Act.

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

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal and Replace 106 CSR 4

§106-4-2. Regulations of supervised lenders.

2.1. Balloon payments - Supervised loans shall not contain balloon payments.

2.2. 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.

2.3. Advertising.

(a) The loan ceiling of one thousand six hundred dollars (\$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 one thousand six hundred dollars (\$1,600) 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 perspective 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 four, chapter forty-six-a 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 (2) years from the date of its use. However, when two (2) or more offices are under the same ownership or control, such copy may be kept at one (1) central office within the State.

2.4 Refinancing and consolidation.

(a) A supervised loan, whether a new loan or a loan resulting from refinancing and/or consolidation, shall not exceed one thousand six hundred dollars (\$1,600) 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.

2.5. 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), subsection (6), section one hundred seven, article four, chapter forty-six-a of the West Virginia Code.

2.6. Certain other charges prohibited.

(a) No licensee shall contract for or make any charge not specifically provided for in chapter forty-six-a of the West Virginia Code, unless such charge results from a legal action.

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

2.7. 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 installments 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 judgment was obtained, together with date and detail of judgment 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.

2.8. 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 thirty (30) days after the close of the period.

2.9. 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.

2.10. 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.

2.11. Failure to do business.

Any licensee who fails to have his office open for business at least three (3) hours per day, at least four (4) days per week (legal holidays may be counted as a business day), for a consecutive period of four (4) weeks, shall be deemed to have forfeited his license. Written extensions may be obtained from the Commissioner for periods not exceeding one (1) month upon presentation of evidence satisfactory to the Commissioner that such extensions are warranted.

2.12. 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 bona fide errors in the computation of charges, so long as such corrections are not detrimental to the consumer.

**SUMMARY OF COMMENTS RECEIVED REGARDING PROPOSED
LEGISLATIVE RULE 106 CSR 4**

COMMENTS RECEIVED.

Written comments were requested in lieu of having a public hearing on the proposed rule. No comments were received.