

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark In this Box

FILED
1992 APR 22 AM 7:45
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: West Virginia Division of Banking TITLE NUMBER: 106

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 RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 1

SECTION 64-3-2(f), PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: April 24, 1992

Sharon S. Bias

2.50

106 CSR 4

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.

The supervised lender shall keep financial statements on file at its office or the authorized place of examination on the last day of the month for the previous month's business.

2.3. Advertising.

(a) All supervised lenders shall prominently display the loan ceiling of one thousand six hundred dollars (\$1,600) at or near the entrance to the office, 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 applies 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 supervised lender having existing loans are exempt

from this provision. Personal calling cards of the employees of the supervised lender are also exempt from this provision if they are not used for advertising purposes.

(b) No supervised lender 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 supervised lender.

(c) A supervised lender shall not refer to supervision or control by the state, the Attorney General, the Commissioner of Banking, the Department of Banking, or any other state agency, in any advertising. If desired, a supervised lender may advertise that it is licensed under the provisions of W. Va. Code §46A-4.

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

(e) Each supervised lender 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, the 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 applied first to the sales portion of the loan and thereafter to the loan portion.

(d) A supervised lender may compute the finance charge for the loan portion of a consolidation 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 may contract for and receive, as a minimum charge, the charge provided for in W. Va. Code 46A-4-107(6)(c).

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 the charge results from a legal action.

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

2.7. Records.

(a) A supervised lender shall maintain adequate records for each licensed office which will enable the Commissioner to reconcile outstanding balances.

(b) In the event ledger cards or similar records for loan accounts and installments sales contracts purchased are commingled in a supervised lender'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 the date and amount of judgment.

(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 are 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, a supervised lender shall compute finance charges 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 the new loan contract may include any unpaid loan finance charge which has accrued to the extent that the accrued charge does not exceed the unpaid principal balance of the prior loan. The resulting loan contract is considered 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 the W. Va. Code.

2.11. Failure to do business.

Any supervised lender 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, is considered to have forfeited its license. A supervised lender may obtain a written extension 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.

/ 106-4

Bill Banking, Consumer Credit 106-4

1
2
3
4
5
6
7
8
9

H. B. 4261

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the
Committee on Banking and Insurance then the
Judiciary

10 A BILL to amend and reenact section two, article three, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of banking to promulgate legislative rules relating
14 to the West Virginia consumer credit and protection act and
15 the money and interest article of chapter forty-seven.

16 Be it enacted by the Legislature of West Virginia:

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

20 ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND
21 ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.

22 §64-3-2. Division of banking.

23 (a) The legislative rules filed in the state register on the
24 eleventh day of June, one thousand nine hundred eighty-two,

7.01

1 relating to commissioner of banking (communication terminals and
2 interchange systems), are authorized.

3 (b) The legislative rules filed in the state register on the
4 fifteenth day of December, one thousand nine hundred
5 eighty-three, relating to the commissioner of banking (consumer
6 credit sales), are authorized.

7 (c) The legislative rules filed in the state register on the
8 nineteenth day of August, one thousand nine hundred eighty-three,
9 relating to the commissioner of banking (legal lending limit),
10 are authorized.

11 (d) The legislative rules filed in the state register on the
12 seventh day of November, one thousand nine hundred eighty-six,
13 modified by the commissioner of banking to meet the objections of
14 the legislative rule-making review committee and refiled in the
15 state register on the eleventh day of December, one thousand nine
16 hundred eighty-six, relating to the commissioner of banking
17 (implementing the West Virginia community reinvestment act), are
18 authorized.

19 (e) The legislative rules filed in the state register on the
20 twenty-fifth day of October, one thousand nine hundred
21 eighty-eight, modified by the commissioner of banking to meet the
22 objections of the legislative rule-making review committee and
23 refiled in the state register on the seventh day of December, one
24 thousand nine hundred eighty-eight, relating to the commissioner

1 of banking (subsidiary bank holding the stock of its parent
2 company as collateral), are authorized.

3 (f) The legislative rules filed in the state register on the
4 twelfth day of August, one thousand nine hundred ninety-one,
5 modified by the division of banking to meet the objections of the
6 legislative rule-making review committee and refiled in the state
7 register on the fifteenth day of November, one thousand nine
8 hundred ninety-one, relating to the division of banking (West
9 Virginia consumer credit and protection act and the money and
10 interest article of chapter forty-seven), are authorized.

11

12 NOTE: The purpose of this bill is to authorize the Division
13 of Banking to promulgate legislative rules relating to the West
14 Virginia Consumer Credit and Protection Act and the money and
15 interest article of Chapter 47.

16

17 Strike-throughs indicate language that would be stricken from
18 the present law, and underscoring indicates new language that
19 would be added.



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

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

TO: Rick Lancianese

AGENCY: Banking

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: December 11, 1992

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: 4 TITLE: 106 Banking

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

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

SIGNED: Richard L. Lancianese

TITLE OF PERSON SIGNING: Deputy Comm. / General Counsel

DATE: 12-15-92

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