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WEST VIRGINIA)
SECRETARY OF STATE)
KEN HECHLER)
ADMINISTRATIVE LAW DIVISION)

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #4

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: WV Division of Banking TITLE NUMBER: 106

CITE AUTHORITY WV 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 WV
Consumer Credit and Protection Act

IF NO, SERIES OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE
LEGISLATIVE RULE MAKING COMMITTEE IS HEREBY MODIFIED AS A RESULT OF
REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE.
THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Sharon J. Bies



DIVISION OF BANKING

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

CONSENT TO FILE RULE

November 20, 1995

TO WHOM IT MAY CONCERN:

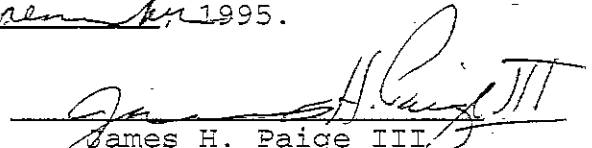
Title of Rule: Regulations Pertaining to the WV Consumer Credit
& Protection Act

Title Number: 106

Series Number: 4

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.

Signed this 27 day of November, 1995.


James H. Paige III
Secretary of Tax & Revenue

TITLE 106
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF BANKING

SERIES 4

~~REGULATIONS~~ RULES PERTAINING TO THE WEST VIRGINIA
CONSUMER CREDIT AND PROTECTION ACT

§106-4-1. General.

1.1. Scope. -- ~~These regulations~~ This rule establishes general ~~rules provisions~~ 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. -- ~~April 22, 1992~~

1.4. Effective Date. -- ~~April 24, 1992~~

§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 two thousand six hundred dollars (\$1,600) (\$2,000) at or near the entrance to the office, except those operating under dual authority. The supervised loan ceiling of one two thousand six hundred dollars (\$1,600) (\$2,000) shall be shown or stated in all advertising, regardless of the media used. This provision requirement 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 requirement. Personal calling cards of the employees of the supervised lender are also exempt from this provision requirement if they are not used for advertising purposes.

(b) No supervised lender 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 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 Division 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-4-1 et seq.

(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 two thousand six hundred~~ dollars ~~(\$1,600)~~ (\$2,000) for its 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~~ supervised lender 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 awarded by a court.

(b) Examples of additional charges prohibited in subsection (a) of this section include, but are not limited to, ~~the following: Collection collection charges and legal fees; credit reports, loan investigation fees and appraisal fees.~~ Further, a supervised lender may not make a separate charge for

credit reports, loan investigation fees or appraisal fees except as those fees are part of prepaid loan finance charges.

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 the supervised lender shall have~~ a system by which ~~such those~~ cards may be readily identified, one from the other, such as being of different colors or having corners of different colors. All ~~such~~ ledger 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 the date and amount of judgement.

(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. Where a non-resident enters into a consumer credit agreement in another state W. Va. Code §46A-3-104(8) permits a resident lender as assignee to collect the finance charge provided in the agreement under the laws of the state where the agreement was executed.

2.11. Failure to do business.

Any supervised lender who fails to have his or her 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 extensions from the Commissioner for periods not exceeding one (1) month upon presentation of evidence satisfactory to the Commissioner that such the extensions are warranted.

2.12. Installment sales contracts.

(a) A supervised lender may purchase installment sales contracts without regard to the amount of ~~said~~ the 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 the corrections are not detrimental to the consumer.



FILED

Nov 27 2 13 PM '95

West Virginia Legislature
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Room MB47-State Capitol
Charleston, West Virginia 25305
(304) 347-4840

Senator Mike Ross, Co-Chair
Delegate Vickie Douglas, Co-Chair

Debra A. Graham, Counsel
Joe Altizer, Associate Counsel
Marie Nickerson, Admr. Assistant

November 15, 1995

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Ms. Sharon Bias
Division of Banking
Bldg. 3, Room 311
Capitol Complex
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Regulations Pertaining to the WV Consumer Credit and Protection Act

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency X
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Timothy Winslow
General Counsel

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