

FILED

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

Do Not Mark In This Box
APR 4 11 30 AM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #6

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

AGENCY: WV Division of Banking TITLE NUMBER: 106

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11

TITLE OF RULE BEING AMENDED: Permissible Additional Charges in
Connection with a Consumer Credit Sale

IF NO, SERIES 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) SB 171

SECTION 64-7-1(b), PASSED ON March 7, 1996

THIS RULE IS FILED WITH THE SECRETARY OF STATE, THIS RULE BECOMES EFFECTIVE

ON THE FOLLOWING DATE: May 1, 1996

Shan S. B.
AUTHORIZED SIGNATURE

FILED

TITLE 106
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF BANKING

APR 4 11 30 AM '96

SERIES 11
PERMISSIBLE ADDITIONAL CHARGES IN CONNECTION WITH A CONSUMER CREDIT SALE
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§106-11-1. General.

1.1. Scope. -- This rule establishes certain other "Permissible Additional Charges", for benefits conferred on the consumer in a consumer credit sale, pursuant to W. Va. Code §46A-3-109(a)(4).

1.2. Authority. -- W. Va. Code §§46A-3-109(a)(4) and 31A-2-4(c)(12).

1.3. Filing Date. -- April 4, 1996

1.4. Effective Date. -- May 1, 1996

§106-11-2. Documentary Fee or Documentary Charge.

2.1. Benefit to Consumer. -- The "Documentary Fee" or "Documentary Charge" provided for in West Virginia Code §46A-3-109(a)(6) applies to a documentary service. The documentary service is limited to securing a title and services related to securing a title actually provided to the consumer in a consumer credit sale. (Except as authorized under W. Va. Code § 17A-4A-4, documentary services do not include services that the seller is required by law to perform. It is not mandatory under this rule for the seller to provide documentary services for which a "Documentary Fee" or "Documentary Charge" apply, and the consumer, unless otherwise precluded by law, has the option to accept the documentary service for which the "Documentary Fee" or "Documentary Charges" apply. The "Documentary Fee" or "Documentary Charge" must represent a benefit of value to the consumer and there must be a reasonable relationship between the fee or charge and the benefit conferred on the consumer. The seller in a consumer credit sale must demonstrate that there was a documentary service actually performed, that the documentary service was of value to the consumer, and that there was a reasonable relationship between the fee or charge and the benefit conferred upon the consumer.

§106-11-3. Flood Mapping Service Fee for Residential Property.

3.1. Third Party Providers. -- A lender in making a consumer loan secured by a first lien on residential property, including a loan for mobile home purchase or refinancing where the home is to be placed on a certain parcel of real estate known to the lender, may charge the consumer and recover the reasonable fee incurred by the lender in obtaining information from a non-affiliated third party on the flood map location of the property; Provided that this flood map location information is required by federal law or regulation to be ascertained by the lender. The flood mapping service fee must be reasonable in relation to the actual service provided.

§106-11-4. Over-the-limit Fees.

4.1. Revolving Credit. -- A lender may assess, as a permissible additional charge in connection with a revolving line of credit, a charge to the consumer for exceeding his or her credit limit. The charge may not in any billing period exceed two percent (2%) of the consumer's established credit limit or ten dollars (\$10), whichever is less. This charge is also subject to the monthly periodic finance charge if not paid upon initial billing.

§106-11-5. Cash Advance Charges.

5.1. Lender Credit Cards. -- A lender may impose charges for a cash advance obtained by a consumer in connection with use of a lender credit card as a permissible additional charge. The charge may not, per occurrence, exceed one and one-half percent (1.5%) of the amount of the cash advance, or five dollars (\$5), whichever is less. These charges are also subject to the monthly periodic finance charge if not paid upon initial billing.

4236

H. B. 4236

106-11

(By Delegates Douglas, Gallagher, Faircloth, Compton,
Linch and Riggs)

(Introduced January 29, 1996 ; referred to the
Committee on Banking and Insurance then the Judiciary)

A BILL to amend and reenact section two, article seven,
chapter sixty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to authorizing the division of banking to promulgate
legislative rules relating to permissible additional
charges in connection with a consumer credit sale.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE
TO PROMULGATE LEGISLATIVE RULES.

§64-7-2. Division of banking.

(a) The legislative rules filed in the state register

4236

1 on the twelfth day of August, one thousand nine hundred
2 ninety-four, authorized under the authority of section
3 twenty-six, article four, chapter thirty-one-a, of this
4 code, modified by the division of banking to meet the
5 objections of the legislative rule-making review committee
6 and refiled in the state register on the second day of
7 November, one thousand nine hundred ninety-four, relating
8 to the division of banking (legal lending limit, 106 CSR
9 9), are authorized.

10 (b) The legislative rules filed in the state register
11 on the twelfth day of August, one thousand nine hundred
12 ninety-four, authorized under the authority of section
13 thirty-three, article four, chapter thirty-one-a, of this
14 code, relating to the division of banking (notice and
15 treatment of joint accounts, 106 CSR 17), are authorized.

16 (c) The legislative rules filed in the state register
17 on the twenty-eighth day of July, one thousand nine hundred
18 ninety-five, authorized under the authority of section
19 four, article two, chapter thirty-one-a, of this code,
20 modified by the division of banking to meet the objections
21 of the legislative rule-making review committee and refiled
22 in the state register on the first day of December, one
23 thousand nine hundred ninety-five, relating to the division
24 of banking (permissible additional charges in connection

1 with a consumer credit sale, 106 CSR 11), are authorized.

2

3 NOTE: The purpose of this bill is to authorize the
4 Division of Banking to promulgate legislative rules
5 relating to permissible additional charges in connection
6 with a consumer credit sale.

7

8 Strike-throughs indicate language that would be
9 stricken from the present law, and underscoring indicates
10 new language that would be added.

SENATE BILL NO. 167

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(By Senators Ross, Anderson, Boley,
Buckalew, Grubb and Macnaughtan)

[Introduced January 29, 1996; referred
to the Committee on
BANKING AND INSURANCE

~~FINANCIAL~~

106-11

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22 in the state register on the first day of December, one
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9 stricken from the present law, and underscoring indicates
10 new language that would be added.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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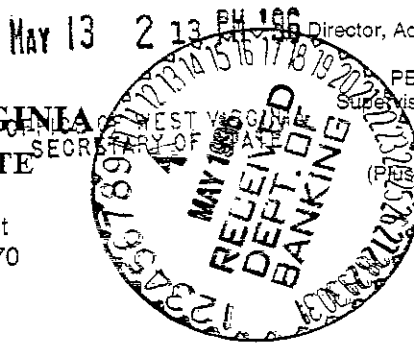
FILED

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

STATE OF WEST VIRGINIA
SECRETARY OF STATE
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770



(Plus all the volunteer help we can get)

TO: Timothy Winslow

AGENCY: Banking

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: May 8, 1996

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: 11 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: Timothy C Winslow

TITLE OF PERSON SIGNING: General Counsel

DATE: 5/13/96

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

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
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WILLIAM H. HARRINGTON
Chief of Staff

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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(Plus all the volunteer
help we can get)

March 12, 1996

Timothy Winslow
Banking
State Capitol Complex
Bldg 3 Rm 311
Charleston, WV 25305

SB 171 authorizing, **Title 106, Series 11, Permissible Additional Charges in Connection with a Consumer Credit Sale** passed the Legislature on **March 7, 1996**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **SB 171** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 171 Section 64-7-1(b)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,
Administrative Law Division