

Senate Bill No. 345

(By Senator Minard)

[Introduced January 18, 2012; referred to the Committee on
Banking and Insurance; and then to the Committee on the
Judiciary.]

A BILL to amend and reenact §46A-4-111 of the Code of West Virginia, 1931, as amended, relating to the requirement of written documentation of a reasonable net tangible benefit to the borrower of any refinancing of a real estate secured loan by a regulated consumer lender; and clarifying that the requirement applies to any refinancing that occurs within twenty-four months of the date of the original consumer loan or consumer credit sale secured by residential real estate.

Be it enacted by the Legislature of West Virginia:

That §46A-4-111 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. REGULATED CONSUMER LENDERS.

§46A-4-111. Disclosure of higher annual percentage rate upon refinancing of a loan not secured by real estate

1 **at higher rate; requiring documentation of a**
2 **reasonable net tangible benefit to the borrower of**
3 **any refinancing of a real estate secured loan.**

4 (1) Any nonrevolving consumer loan or consumer credit sale
5 that is not secured by residential real estate that is refinanced
6 or consolidated with a new loan under this article after September
7 1, 2009, at a higher annual percentage rate than the consumer loan
8 or consumer credit sale being refinanced must provide the consumer
9 the following disclosures:

10 "If you do agree to refinance or consolidate your existing
11 obligation, you will be paying an annual percentage rate of ____%
12 on the existing balance of \$____, instead of the annual percentage
13 rate of ____% which you are now paying.

14 I acknowledge receipt of this information _____ (initials
15 of borrower)."

16 Nothing in this subsection shall prohibit the receipt of goods
17 or services by the borrower at the time the consolidated loan
18 agreement is made, nor shall this subsection prohibit or pertain to
19 any loan where the refinancing or consolidation results in the
20 consumer paying the same or a lower annual percentage rate.

21 (2) No nonrevolving consumer loan or consumer credit sale that
22 is secured by residential real estate may be refinanced or
23 consolidated with a new loan secured by residential real estate and
24 made under this article within twenty-four months of the date of

1 the original consumer loan or consumer credit sale secured by
2 residential real estate, unless the new loan has a reasonable,
3 tangible net benefit to the borrower considering all of the
4 circumstances, including the terms of both the new and the
5 refinanced loans, the cost of the new loan and the borrower's
6 circumstances. The reasonable, tangible net benefit shall be
7 documented in writing on a form prescribed by the commissioner and
8 maintained in the loan file.

Note: The purpose of this bill is to require regulated consumer lenders to provide a substantial benefit or a substantial benefit disclosure form only for loans refinanced within twenty-four months of original loan.

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