

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4234

BY DELEGATES HANSHAW AND SHOTT

[Introduced January 22, 2016; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §46A-1-105 of the Code of West Virginia, 1931, as amended; and
2 to amend said code by adding thereto a new section, designated §46A-7-116, all relating
3 to consumer credit and protection; empowering the Attorney General to investigate and
4 seek injunctive relief and civil actions for conduct in violation of the Consumer Credit and
5 Protection Act that is otherwise excluded under the act; and expressly authorizing
6 exceptions to conduct excluded under the act.

Be it enacted by the Legislature of West Virginia:

1 That §46A-1-105 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; and to amend said code by adding thereto a new section, designated §46A-7-116, all
3 to read as follows:

CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT

ARTICLE 1. SHORT TITLE, DEFINITIONS AND GENERAL PROVISIONS.

§46A-1-105. Exclusions.

1 (a) This chapter does not apply to:
2 (1) Extensions of credit to government or governmental agencies or instrumentalities;
3 (2) The sale of insurance by an insurer, except as otherwise provided in this chapter;
4 (3) Transactions under public utility or common carrier tariffs if a subdivision or agency of
5 this state or of the United States regulates the charges for the services involved, the charges for
6 delayed payment, and any discount allowed for early payment: Provided, That this exclusion may
7 not apply to actions or investigations brought by the Attorney General under section one hundred
8 sixteen, article seven of this chapter; or
9 (4) Licensed pawnbrokers.
10 (b) Mortgage lender and broker licensees are excluded from the provisions of this chapter
11 to the extent those provisions directly conflict with any section of article seventeen, chapter thirty-

12 one of this code.

ARTICLE 7. ADMINISTRATION

§46A-7-116. Conduct otherwise excluded under this chapter.

1 (a) Notwithstanding the exclusions contained in subdivision (3), subsection (a), section
2 one of article seven of this chapter, the Attorney General may investigate, seek injunctive relief
3 or institute civil actions as authorized under this article, or as *parens patriae* under section one
4 hundred six, article six of this chapter, for conduct in violation of this chapter, even if the conduct
5 is related directly or indirectly to transactions arising under a public utility or common carrier tariff
6 regulated by the Public Service Commission or agency of the United States: *Provided*, That the
7 conduct have affected, or potentially have affected, more than fifty residents of the State of West
8 Virginia.

9 (b) Nothing in this section shall be construed to give rise to a cause of action or injunctive
10 relief by private individuals or otherwise abrogate the exclusions contained in section one hundred
11 five, article one, chapter forty-six of this Code except as to the Attorney General as outlined in
12 this section.

NOTE: The purpose of this bill is to authorize the Attorney General to be able to investigate, and file civil actions against companies or individuals for conduct otherwise regulated by the PSC or federal agency. The authorization is limited to the Office of the Attorney General and only if the conduct affects at least 50 residents of the state.

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