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CLIFFE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



# ENROLLED

## House Bill No. 4393

(By Delegate R. M. Thompson)



Passed March 7, 2002

In Effect Ninety Days from Passage

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OFFICE WEST VIRGINIA  
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### H. B. 4393

(BY DELEGATE R. M. THOMPSON)

[Passed March 7, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and two, article one, chapter forty-seven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the West Virginia lending and credit rate board; abolishing the lending and credit rate board revolving fund; and providing that the board use the division of banking special revenue account.

*Be it enacted by the Legislature of West Virginia:*

That sections one and two, article one, chapter forty-seven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

#### **ARTICLE 1. LENDING AND CREDIT RATE BOARD.**

##### **§47A-1-1. Legislative findings; creation, membership, powers and duties of board; termination of board.**

1 (a) The Legislature hereby finds and declares that:

2 (1) Changes in the permissible charges on loans, credit  
3 sales or transactions, forbearance or other similar transactions  
4 requires specialized knowledge of the needs of the citizens of  
5 West Virginia for credit for personal and commercial purposes  
6 and knowledge of the availability of such credit at reasonable  
7 rates to the citizens of this state while affording a competitive  
8 return to persons extending such credit;

9 (2) Maximum charges on loans, credit sales or transactions,  
10 forbearance or other similar transactions executed in this state  
11 should be prescribed from time to time to reflect changed  
12 economic conditions, current interest rates and finance charges  
13 throughout the United States and the availability of credit  
14 within the state in order to promote the making of such loans in  
15 this state; and

16 (3) The prescribing of such maximum interest rates and  
17 finance charges can be accomplished most effectively and  
18 flexibly by a board comprised of the heads of designated  
19 government agencies, university schools of business and  
20 administration and members of the public.

21 (b) In view of the foregoing findings, it is the purpose of  
22 this section to establish the West Virginia lending and credit  
23 rate board and authorize said board to prescribe semiannually  
24 the maximum interest rates and finance charges on loans, credit  
25 sales or transactions, forbearance or similar transactions made  
26 pursuant to this section subject to the provisions, conditions and  
27 limitations hereinafter set forth and to authorize lenders, sellers  
28 and other creditors to charge up to the maximum interest rates  
29 or finance charges so fixed. The rates prescribed by the board  
30 are alternative rates and any creditor may utilize either the rate  
31 or rates set by the board or any other rate or rates which the  
32 creditor is permitted to charge under any other provision of this  
33 code.

34 (c) The West Virginia lending and credit rate board shall be  
35 comprised of:

36 (1) The director of the governor's office of economic and  
37 community development;

38 (2) The West Virginia state treasurer;

39 (3) The West Virginia banking commissioner;

40 (4) The deans of the schools of business and administration  
41 at Marshall University and West Virginia University;

42 (5) The director of the division of consumer protection of  
43 the attorney general's office; and

44 (6) Three members of the public appointed by the governor  
45 with the advice and consent of the Senate. The members of the  
46 public shall be appointed for terms of six years each, and until  
47 their successors are appointed and qualified; except that of the  
48 members first appointed, one shall be appointed for a term of  
49 two years, one for a term of four years and one for a term of six  
50 years. A member who has served one full term of six years shall  
51 be ineligible for appointment for the next succeeding term.  
52 Vacancies shall be filled by appointment of the governor with  
53 the advice and consent of the Senate, or if any vacancy remains  
54 unfilled for three months, by a majority vote of the board. The  
55 West Virginia banking commissioner shall serve as chairperson  
56 of the board and the rate or rates set by the board shall be  
57 determined by a majority vote of those members of the board in  
58 attendance at the respective board meeting.

59 (d) The West Virginia lending and credit rate board is  
60 hereby authorized and directed to meet after the thirty-first day  
61 of December, one thousand nine hundred eighty-three, on the  
62 first Tuesday of April and on the first Tuesday of October of  
63 each year or more or less frequently as required by the

64 circumstances and to prescribe by order a maximum rate of  
65 interest and finance charge for the next succeeding six months,  
66 effective on the first day of June and on the first day of  
67 December, for any loans, credit sales or transactions,  
68 forbearance or similar transactions made pursuant to this  
69 section. In fixing said maximum rates of interest and finance  
70 charge, the board shall take into consideration prevailing  
71 economic conditions, including the monthly index of long-term  
72 United States government bond yields for the preceding  
73 calendar month, yields on conventional commercial short-term  
74 loans and notes throughout West Virginia and throughout the  
75 United States and on corporate interest-bearing securities of  
76 high quality, the availability of credit at reasonable rates to the  
77 citizens of this state which afford a competitive return to  
78 persons extending such credit and such other factors as the  
79 board may determine.

80 (e) Any petition proposing a change in the prescribed  
81 maximum rates of interest and finance charges must be filed in  
82 the office of the banking commissioner no later than the  
83 fifteenth day of February in order to be voted on at the board  
84 meeting on the first Tuesday of April and no later than the  
85 fifteenth day of August in order to be voted on at the board  
86 meeting on the first Tuesday of October. Whenever any change  
87 in the prescribed maximum rates of interest and finance charges  
88 is proposed the board shall schedule a hearing, at least fifteen  
89 days prior to the board meeting at which the proposed rates of  
90 interest and finance charge will be voted on by the members of  
91 the board, and shall give all interested parties the opportunity to  
92 testify and to submit information at such public hearing that is  
93 relevant. Notice of the scheduled public hearing shall be issued  
94 and disseminated to the public at least twenty days prior to the  
95 scheduled date of the hearing.

96 (f) The board shall prescribe by order issued not later than  
97 the twentieth day of April and not later than the twentieth day

198 of October, in accordance with the provisions of subsection (d)  
199 of this section the maximum rates of interest and finance charge  
200 for the next succeeding six months for any loan, credit sale,  
201 forbearance or similar transaction made pursuant to this section  
202 and shall cause such maximum rate of interest and finance  
203 charge to be issued and disseminated to the public, such  
204 maximum rate of interest and finance charge to be effective on  
205 the first day of June and the first day of December for the next  
206 succeeding six months.

207 (g) Notwithstanding the other provisions of this chapter, the  
208 West Virginia lending and credit rate board shall not be  
209 required to meet if no petition has been filed with the board  
210 requesting a hearing and interest rates and economic conditions  
211 have not changed sufficiently to indicate that any change in the  
212 existing rate order would be required, and there are not at least  
213 two board members who concur that a meeting of the board is  
214 necessary. If the board does not meet, the maximum rates of  
215 interest and finance charges prescribed by the board in the  
216 existing rate order shall remain in full force and effect until the  
217 next time the board meets and prescribes different maximum  
218 rates of interest and finance charges.

219 (h) If circumstances and economic conditions require, the  
220 chairperson or any three board members, at any time, may call  
221 an emergency interim meeting of the West Virginia lending and  
222 credit rate board, at which time the chairperson shall give ten  
223 days' notice of the scheduled emergency meeting to the public.  
224 All interested parties shall have the opportunity to be heard and  
225 to submit information at such emergency meeting that is  
226 relevant. Any and all emergency rate board orders shall be  
227 effective within thirty days from the date of such emergency  
228 meeting.

229 (i) Each member of the board, except those whose regular  
230 salary is paid by the state of West Virginia, shall receive

131 seventy-five dollars per diem while actually engaged in the  
132 performance of the duties of the board. Each member shall be  
133 reimbursed for all reasonable and necessary expenses actually  
134 incurred during the performance of their duties, except that in  
135 the event the expenses are paid by a third party the members  
136 shall not be reimbursed by the state. The reimbursement shall  
137 be paid out of the special revenue account of the division of  
138 banking upon a requisition upon the state auditor, properly  
139 certified by the banking commissioner.

140 (j) In setting the maximum interest rates and finance  
141 charges, the board may set varying rates based on the type of  
142 credit transaction, the term of transaction, the type of debtor,  
143 the type of creditor and other factors relevant to determination  
144 of such rates. In addition, the board may set varying rates for  
145 ranges of principal balances within a single category of credit  
146 transactions.

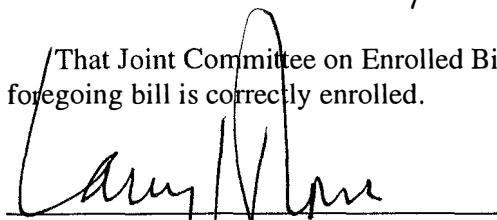
147 (k) Pursuant to the provisions of article ten, chapter four of  
148 this code, the West Virginia lending and credit rate board shall  
149 continue to exist until the first day of July, two thousand five.

**§47A-1-2. Board staff, offices, funding.**

1 Under the direction of the chairperson of the board, the  
2 board shall be entitled to utilize the staff of the West Virginia  
3 banking department and the offices of the board shall be those  
4 of the West Virginia banking department, in order to defray the  
5 cost of the board's operations.

6 On or before the first day of July of each year, the  
7 commissioner of banking may charge and collect from each  
8 supervised financial organization and supervised lender a yearly  
9 fee of fifty dollars and pay it into the special revenue account  
10 of the division of banking. The fees paid into this account shall  
11 be utilized to pay the costs and expenses of the board and all  
12 incidental costs and expenses necessary for its operations.

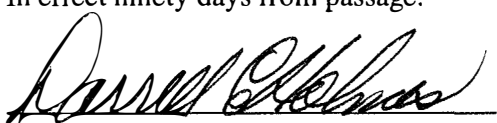
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

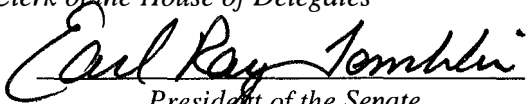
  
Chairman House Committee


Originating in the House.

In effect ninety days from passage.

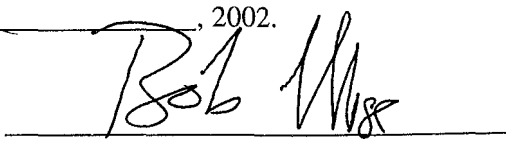
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 18th  
day of March, 2002.

  
Governor



PRESENTED TO THE

GOVERNING

Date

3/2/02

Time

3:15pm