

SB 387

FILED

2010 MAR 18 PM 3:38

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

ENROLLED

Senate Bill No. 387

(BY SENATORS MINARD, JENKINS,
McCABE, WILLIAMS AND PLYMALE)

[Passed March 9, 2010; in effect ninety days from passage.]

2010 MAR 18 PM 3: 38

OFFICE OF THE VIRGINIA
SECRETARY OF STATE

ENROLLED

Senate Bill No. 387

(BY SENATORS MINARD, JENKINS, MCCABE, WILLIAMS AND PLYMALE)

[Passed March 9, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §46A-4-102 of the Code of West Virginia, 1931, as amended, relating to regulated consumer lenders; providing that mortgage loan originators employed by regulated consumer lenders in this state must be either licensed or registered with the Nationwide Mortgage Licensing System and Registry; and requiring regulated consumer lenders to provide notice of change of ownership and/or control of such institutions to the West Virginia Division of Banking.

Be it enacted by the Legislature of West Virginia:

That §46A-4-102 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. REGULATED CONSUMER LENDERS.

§46A-4-102. License to make regulated consumer loans.

1 (1) The commissioner shall receive and act on all appli-
2 cations for licenses to make regulated consumer loans
3 under this chapter. Applications shall be under oath, be
4 filed in the manner prescribed by the commissioner and

5 contain the information the commissioner requires to
6 make an evaluation of the financial responsibility, experi-
7 ence, character and fitness of the applicant and the
8 findings required of him or her before he or she may issue
9 a license. At the time of the filing of the application, the
10 sum of \$750 shall be paid to the commissioner as an
11 investigation fee.

12 (2) A license may not be issued to a supervised financial
13 organization other than to one primarily engaged in the
14 business of making consumer loans through offices located
15 within this state or to one licensed under the provisions of
16 the West Virginia Mortgage Loan Act as contained in
17 article seventeen, chapter thirty-one of this code, or to any
18 banking institution as defined by the provisions of section
19 two, article one, chapter thirty-one-a of this code. A
20 license will not be granted to any office located outside
21 this state: *Provided*, That the limitation of licensing
22 contained in this subsection does not prevent any super-
23 vised financial organization from making regulated
24 consumer loans when the applicable state or federal
25 statute, law, rule or regulation permits. A license may not
26 be issued to any person unless the commissioner, upon
27 investigation, finds that the financial responsibility,
28 experience, character and fitness of the applicant, and of
29 the members thereof (if the applicant is a copartnership or
30 association) and of the officers and directors thereof (if the
31 applicant is a corporation), are such as to command the
32 confidence of the community and to warrant belief that
33 the business will be operated honestly, fairly and effi-
34 ciently, within the purposes of this chapter, and the
35 applicant has available for the operation of the business at
36 least \$10,000 in capital and has, for each specified location
37 of operation, assets of at least \$2,000.

38 (3) Upon written request, the applicant is entitled to a
39 hearing on the question of his or her qualifications for a
40 license if: (a) The commissioner has notified the applicant

41 in writing that his or her application has been denied; or
42 (b) the commissioner has not issued a license within sixty
43 days after the application for the license was filed. A
44 request for a hearing may not be made more than fifteen
45 days after the commissioner has mailed a writing to the
46 applicant notifying him or her that the application has
47 been denied and stating in substance the commissioner's
48 findings supporting denial of the application.

49 (4) Not more than one place of business shall be main-
50 tained under the same license, but the commissioner may
51 issue more than one license to the same licensee upon
52 compliance with all the provisions of this article governing
53 an original issuance of a license for each such new license.
54 Each license shall remain in full force and effect until
55 surrendered, forfeited, suspended or revoked.

56 (5) Upon giving the commissioner at least fifteen days'
57 prior written notice, a licensee may: (a) Change the
58 location of any place of business located within a municipi-
59 pality to any other location within that same municipality;
60 or (b) change the location of any place of business located
61 outside of a municipality to a location no more than five
62 miles from the originally licensed location, but in no case
63 may a licensee move any place of business located outside
64 a municipality to a location within a municipality. A
65 licensee may not move the location of any place of busi-
66 ness located within a municipality to any other location
67 outside of that municipality.

68 (6) A licensee may conduct the business of making
69 regulated consumer loans only at or from a place of
70 business for which he or she holds a license and not under
71 any other name than that stated in the license.

72 (7) A license issued under the provisions of this section
73 shall not be transferable or assignable.

74 (8) A licensee must be incorporated under the laws of
75 this state. The licensee may, however, be a subsidiary of
76 an out-of-state company or financial institution.

77 (9) All mortgage loan originators, as defined in article
78 seventeen-a, chapter thirty-one of this code, who are
79 employed by a licensed regulated consumer lender must be
80 licensed or registered and issued a unique identifier by the
81 Nationwide Mortgage Licensing System and Registry
82 pursuant to the requirements provided in article
83 seventeen-a, chapter thirty-one of this code.

84 (10) All regulated consumer lenders must file with the
85 commissioner a bond in favor of the state for the benefit of
86 consumers or for a claim by the commissioner for an
87 unpaid civil administrative penalty or an unpaid examina-
88 tion invoice in the amount of \$100,000 for licensees with
89 West Virginia mortgage loan originations of \$0 to \$3
90 million, \$150,000 for West Virginia mortgage loan
91 originations greater than \$3 million and up to \$10 million,
92 and \$200,000 for West Virginia mortgage loan originations
93 over \$10 million in a form and with conditions as the
94 commissioner may prescribe and executed by a surety
95 company authorized to do business in this state.

96 (11) All regulated consumer lenders shall notify the
97 commissioner of any merger or acquisition which may
98 result in a change of control or a change in principals of
99 the regulated consumer lender within fifteen days of
100 announcement or publication of the proposal, or its
101 occurrence, whichever is earlier. Upon notice of these
102 circumstances by a corporate licensee, the commissioner
103 may require all information necessary to determine
104 whether it results in a transfer or assignment of the license
105 and thus if a new application is required in order for the
106 company to continue doing business under this article. A
107 licensee that is an entity other than a corporation shall in
108 these circumstances submit a new application for licensure
109 at the time of notice.

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

[Handwritten Signature]

.....
Chairman Senate Committee

[Handwritten Signature: Danny Wells]

.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Handwritten Signature: Darrell Holcomb]

.....
Clerk of the Senate

[Handwritten Signature: Susan M. Bow]

.....
Clerk of the House of Delegates

[Handwritten Signature: Carl Ray Tomblin]

.....
President of the Senate

[Handwritten Signature: Keith Mox]

.....
Speaker House of Delegates

The within *is appended* this the *18th*

Day of *March*, 2010.

[Handwritten Signature: Jeff Kessler]

.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 17 2010

Time 9:13am