

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 729

**FISCAL
NOTE**

By Senator Azinger

[Introduced March 10, 2025; referred
to the Committee on Banking and Insurance; and
then to the Committee on Finance]

1 A BILL to amend and reenact §46A-4-107 of the Code of West Virginia, 1931, as amended,
2 relating to regulated consumer lenders; setting a new maximum annual interest rate for
3 regulated consumer lenders to charge on loans up to \$35,000; and removing a cap on
4 nonrevolving loans when determining a finance charge.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. REGULATED CONSUMER LENDERS.

§46A-4-107. Loan finance charge for regulated consumer lenders.

1 (1) With respect to a regulated consumer loan, including a revolving loan account, a
2 regulated consumer lender may contract for and receive a loan finance charge not exceeding that
3 permitted by this section.

4 (2) A regulated consumer lender may make installment loans of up to \$35,000, which loans
5 shall have a term of no fewer than six months and no more than 120 months and shall be
6 repayable in substantially equal consecutive payments. On such loans, the loan finance charge,
7 calculated according to the actuarial method, may not exceed 36 percent per year on the unpaid
8 balance of the principal amount. On a loan of \$3,500 or less which is unsecured by real property,
9 the loan finance charge, calculated according to the actuarial method, may not exceed 31 percent
10 per year on the unpaid balance of the principal amount.

11 ~~(3) On a loan greater than \$3,500 but less than or equal to \$15,000, or which is secured by~~
12 ~~real property, the loan finance charge, calculated according to the actuarial method, may not~~
13 ~~exceed 27 percent per year on the unpaid balance of the principal amount: *Provided*, That the loan~~
14 ~~finance charge on any loan greater than \$15,000 may not exceed 18 percent per year on the~~
15 ~~unpaid balance of the principal amount. Loans made by regulated consumer lenders shall be~~
16 ~~subject to the restrictions and supervision set forth in this article irrespective of their rate of finance~~
17 ~~charges.~~

18 (4)(3) Where the loan is nonrevolving and is greater than \$3,500, the permitted finance
19 charge may include a charge of not more than a total of two percent of the amount financed for any

20 origination fee, points, or investigation fee: *Provided*, That where any loan, revolving or
21 nonrevolving, is secured by real estate, the permitted finance charge may include a charge of not
22 more than a total of five percent of the amount financed for any origination fee, points, or
23 investigation fee. In any loan secured by real estate, the charges may not be imposed again by the
24 same or affiliated lender in any refinancing of that loan made within 24 months thereof, unless
25 these earlier charges have been rebated by payment or credit to the consumer under the actuarial
26 method or the total of the earlier and proposed charges does not exceed five percent of the
27 amount financed. Charges permitted under this subsection shall be included in the calculation of
28 the loan finance charge. The financing of the charges is permissible and does not constitute
29 charging interest on interest. In a revolving home equity loan, the amount of the credit line
30 extended is, for purposes of this subsection, the amount financed. Other than herein provided, no
31 points, origination fee, investigation fee, or other similar prepaid finance charges attributable to the
32 lender or its affiliates may be levied. Except as provided for by §46A-3-109 of this code, no
33 additional charges may be made; nor may any charge permitted by this section be assessed
34 unless the loan is made. To the extent that this section overrides the preemption on limiting points
35 and other charges on first lien residential mortgages contained in Section 501 of the United States
36 Depository Institutions Deregulation and Monetary Control Act of 1980, the state law limitations
37 contained in this section shall apply. If the loan is precomputed:

38 (a) The loan finance charge may be calculated on the assumption that all scheduled
39 payments will be made when due; and

40 (b) The effect of prepayment, refinancing, or consolidation is governed by the provisions on
41 rebate upon prepayment, refinancing, or consolidation contained in §46A-3-111 of this code.

42 ~~(5)~~(4) For the purposes of this section, the term of a loan commences on the date the loan
43 is made. Differences in the lengths of months are disregarded and a day may be counted as one
44 thirtieth of a month. Subject to classifications and differentiations the licensee may reasonably
45 establish, a part of a month in excess of 15 days may be treated as a full month if periods of 15

46 days or less are disregarded and if that procedure is not consistently used to obtain a greater yield
47 than would otherwise be permitted.

48 ~~(6)~~(5) With respect to a revolving loan account:

49 (a) A charge may be made by a regulated consumer lender in each monthly billing cycle
50 which is one-twelfth of the maximum annual rates permitted by this section computed on an
51 amount not exceeding the greatest of:

52 (i) The average daily balance of the debt; or

53 (ii) The balance of the debt at the beginning of the first day of the billing cycle, less all
54 payments on and credits to such debt during such billing cycle and excluding all additional
55 borrowings during the billing cycle.

56 For the purpose of this subdivision, a billing cycle is monthly if the billing statement dates
57 are on the same day each month or do not vary by more than four days therefrom.

58 (b) If the billing cycle is not monthly, the maximum loan finance charge which may be made
59 by a regulated consumer lender is that percentage which bears the same relation to an applicable
60 monthly percentage as the number of days in the billing cycle bears to 30.

61 (c) Notwithstanding subdivisions (a) and (b) of this subsection, if there is an unpaid balance
62 on the date as of which the loan finance charge is applied, the licensee may contract for and
63 receive a charge not exceeding 50 cents if the billing cycle is monthly or longer or the pro rata part
64 of 50 cents which bears the same relation to 50 cents as the number of days in the billing cycle
65 bears to 30 if the billing cycle is shorter than monthly, but no charge may be made pursuant to this
66 subdivision if the lender has made an annual charge for the same period as permitted by the
67 provisions on additional charges.

68 ~~(7) As an alternative to the loan finance charges allowed by subsections (2) and (4) of this~~
69 ~~section, a regulated consumer lender may on a loan not secured by real estate of \$3,500 or less~~
70 ~~contract for and receive interest at a rate of up to 31 percent per year on the unpaid balance of the~~
71 ~~principal amount, together with an nonrefundable loan processing fee of not more than two~~

72 ~~percent of the amount finance: *Provided*, That no other finance charges are imposed on the loan.~~
73 ~~The processing fee permitted under this subsection shall be included in the calculation of the loan~~
74 ~~finance charge and the financing of the fee shall be permissible and may not constitute charging~~
75 ~~interest on interest.~~

76 ~~(8)(6)~~ Notwithstanding any contrary provision in this section, a licensed regulated
77 consumer lender who is the assignee of a nonrevolving consumer loan unsecured by real property
78 located in this state, which loan contract was applied for by the consumer when he or she was in
79 another state, and which was executed and had its proceeds distributed in that other state, may
80 collect, receive, and enforce the loan finance charge and other charges, including late fees,
81 provided in the contract under the laws of the state where executed: *Provided*, That the consumer
82 was not induced by the assignee or its in-state affiliates to apply and obtain the loan from an out-of-
83 state source affiliated with the assignee in an effort to evade the consumer protections afforded by
84 this chapter. Such charges may not be considered to be usurious or in violation of the provisions of
85 this chapter or any other provisions of this code.

NOTE: The purpose of this bill is to set a maximum interest rate which licensed regulated consumer lenders may charge on installment loans and remove a cap on nonrevolving loans when determining a finance charge.

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