

W. Va. Code, § 47-6-5

§ 47-6-5. Legal rate of interest; agreements in writing fixing rate of interest; agreements in writing fixing rate of interest for residential real estate purposes; providing there may be no penalty upon prepayment; quarterly reports required

(a) Except in cases where it is otherwise specially provided by law, legal interest shall continue to be at the rate of six dollars upon one hundred dollars for a year, and proportionately for a greater or less sum, or for a longer or shorter time, and no person upon any contract other than a contract in writing shall take for the loan or forbearance of money, or other thing, above the value of such rate: Provided, That a charge of one dollar may be made for any loan or forbearance of money or other thing, where the interest at the rate aforesaid would not amount to that sum, and the same shall not be a usurious charge or rate of interest.

(b) Parties may contract in writing for the payment of interest for the loan or forbearance of money at a rate not to exceed eight dollars upon one hundred dollars for a year, and proportionately for a greater or less sum, or for a longer or shorter time, including points expressed as a percentage of the loan divided by the number of years of the loan contract.

(c) As an alternative to the interest rate authorized by the provisions of subsections (a) or (b) of this section and any interest rate authorized by any other provision of this Code, where a loan of money is made for the purpose of purchasing real estate upon which is situate a single-family or multi-family residential unit or units, or for the construction of a single-family or multi-family residential unit or units upon real estate, or additions or improvements thereto, or for the purpose of the payment of a loan theretofore made for the construction of a single-family or multi-family residential unit or units upon real estate, and any such loan is secured by a first mortgage or first deed of trust upon such real property, after the effective date of this section and until the first day of July, one thousand nine hundred seventy-five, the parties may contract in writing for the payment of interest for such loan of money at a rate not to exceed nine dollars upon one hundred dollars for a year and proportionately for a greater or less sum, or for a longer or shorter time, including points expressed as a percentage of the loan divided by the number of years of the loan contract, and such maximum rate shall be valid for the term of such contract: Provided, That the parties may contract in writing for the payment of interest for such loan of money at the rate specified in this subsection (c) only if such contract in writing also specifies that there shall be no penalty whatever for prepayment of the loan in whole or in part by cash, a new loan or otherwise, and such contract provision prohibiting any such penalty shall govern and control notwithstanding any other provision of this Code to the contrary, whether such other provision was enacted before or after the enactment of this section: Provided, however, That no such contract shall contain an escalation of interest clause which would allow an increase in the rate of interest being charged.

(d) For the purpose of subsections (b) and (c) of this section, the term "points" is defined as the amount of money, or other consideration, received by the lender, from whatever source, as a consideration for making the loan and not otherwise expressly permitted by statute.

(e) In order for the legislature to determine whether the period of time during which parties may enter into a contract for the payment of the maximum rate of interest authorized in subsection (c) of this section should be extended beyond the thirtieth day of June, one thousand nine hundred seventy-five, the commissioner of banking shall promulgate rules and regulations requiring all banking institutions, savings and loan associations and other financial institutions making loans in this State of the type specified in said subsection (c) to file with him quarterly reports as to the number and amount of loans of the type specified in said subsection (c) made during the preceding quarter, and such quarterly reports shall contain sufficient detail for the legislature to ascertain whether the authorization of the maximum interest rate provided in said subsection (c) has resulted in the making of more loans of the type specified in said subsection (c). The first such report shall cover the quarter which began on the first day of April, one thousand nine hundred seventy-four.

Credits

Acts 1917, c. 55, § 4; Acts 1968, 2nd Ex. Sess., c. 6; Acts 1974, c. 12; Acts 1974, 2nd Ex. Sess., c. 6.

Formerly Code Va. 1849, c. 141, § 4; Code Va. 1860, c. 141, § 4; Code 1868, c. 96, § 4; Code 1923, c. 96, § 4.

W. Va. Code, § 33-13-8

§ 33-13-8. Loans on policies

(a) There shall be a provision that after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment of pledge of the policy and on the sole security thereof, at a specified rate of interest not exceeding eight percent per annum, or seven and four-tenths percent per annum if payable annually in advance, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year: Provided, That the insurer may deduct, either from such loan value or from the proceeds of the loan, any existing indebtedness not already deducted in determining such cash surrender value including any interest then accrued but not due, any unpaid balance of premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six months after application therefor. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect. In any policy issued by conversion of a term insurance policy in force prior to the effective date of this act, the policyholder shall be entitled to a loan at an interest rate in effect on the date of original purchase.

(b) This section shall not apply to term policies nor to term insurance benefits provided by rider or supplemented policy provision.

(c) This section shall not impair the terms and conditions of any policy of life insurance in force prior to the effective date thereof.

(d) As a condition for approval of a policy loan interest rate in excess of six percent per annum, but not in excess of the rate provided in this section, the insurance commissioner shall require the insurer to furnish such assurances as he deems necessary that the holders of such policies will benefit through higher dividends or lower premiums or both.

W. Va. Code, § 46A-3-101

§ 46A-3-101. Finance charges generally

(1) With respect to a consumer credit sale, other than a sale of real estate subject to the provisions of section one hundred two of this article or a sale pursuant to a revolving charge account, a seller may contract for and receive a sales finance charge not exceeding eighteen percent per year on that part of the unpaid balance of the amount financed which is fifteen hundred dollars or less and twelve percent per year on that part of the unpaid balance of the amount financed which is in excess of fifteen hundred dollars calculated according to the actuarial method.

(2) This section does not limit or restrict the manner of calculating the sales finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the sales finance charge does not exceed that permitted by this section. If the sale is precomputed:

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

(b) The effect of prepayment, refinancing or consolidation is governed by the provisions on rebate upon prepayment, refinancing or consolidation, contained in section one hundred eleven of this article.

(3) For the purposes of this section, the term of a sale agreement commences on the date the credit is granted or, if goods are delivered or services performed ten days or more after that date, with the date of commencement of delivery or performance. Differences in the lengths of months are disregarded and a day may be counted as one thirtieth of a month. Subject to classifications and differentiations the seller may reasonably establish, a part of a month in excess of fifteen days may be treated as a full month if periods of fifteen days or less are disregarded and if that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(4) Subject to classifications and differentiations the seller may reasonably establish, he may make the same sales finance charge on all amounts financed within a specified range. A sales finance charge so made does not violate subsection (1) if:

(a) When applied to the median amount within each range, it does not exceed the maximum permitted by subsection (1); and

(b) When applied to the lowest amount within each range, it does not produce a rate of sales finance charge exceeding the rate calculated according to subdivision (a) by more than eight percent of the rate calculated according to subdivision (a).

(5) Notwithstanding subsection (1), the seller may contract for and receive a minimum sales finance charge of not more than five dollars when the amount financed does not exceed seventy-five dollars, or seven dollars and fifty cents when the amount financed exceeds seventy-five dollars.

(6) Notwithstanding any provision of this section to the contrary, with respect to a consumer credit sale involving a motor vehicle or a mobile home or a consumer credit sale from the same seller of both a mobile home and the real estate upon which such mobile home is or will be located, or a consumer credit sale of a mobile home where a security interest in real estate owned by the buyer is given to the seller as collateral, a seller may from the effective date of this section until and including the first day of July, one thousand nine hundred eighty-two, contract for and receive a sales finance charge not exceeding eighteen percent per year on the unpaid balance calculated according to the actuarial method: Provided, that the quantity of real estate involved with the consumer credit sale of a mobile home upon which such finance charge is contracted for and received shall not exceed one acre.

(7) As an alternative to the loan finance charge allowed by subsection (1) of this section, from the effective date of this subsection until and including the first day of July, one thousand nine hundred eighty-two, with respect to a consumer credit sale, other than a sale of real estate subject to the provisions of section one hundred two of this article or a sale pursuant to a revolving charge account, a seller may contract for and receive a sales finance charge not exceeding eighteen percent per year on the unpaid balance of the amount financed calculated according to the actuarial method.

Credits

Acts 1974, c. 12; Acts 1980, c. 72; Acts 1981, c. 152.

W. Va. Code, § 47-6-11

§ 47-6-11. Certain business debts exempt from usury laws

No law limiting interest rates or providing for forfeiture, penalty, or other loss or liability because of the rate of interest charged may be applied:

(1) To any debt that is incurred by a loan, installment sale, or other similar transaction, and is incurred primarily for a business purpose; or

(2) To any addition to or refinancing in whole or in part of a debt meeting the requirements of subdivision (1) of this section, providing such addition or refinancing is also primarily for a business purpose: Provided, That if the debt described in subdivision (1) of this section is incurred by a natural person, the provisions of this section shall not apply unless such debt is in a principal amount of twenty thousand dollars or more.

For the purpose of determining the applicability of this section, the term “business” means and includes any activity that is engaged in primarily for the purpose of generating “gross income,” as that term is defined in section one, article thirteen, chapter eleven of this Code: Provided, That “business” does not mean or include farming or any other agricultural activity engaged in by a producer of agricultural commodities, livestock, or other farm products.

Credits

Acts 1979, c. 100.