

SB 425

FILED

2009 MAY -8 PM 3:41

**WEST VIRGINIA LEGISLATURE**

WEST VIRGINIA  
SECRETARY OF STATE

**SEVENTY-NINTH LEGISLATURE**

**REGULAR SESSION, 2009**



**ENROLLED**

**Senate Bill No. 425**

(BY SENATORS MINARD, JENKINS AND DEEM)

[Passed April 11, 2009; in effect ninety days from passage.]

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## Senate Bill No. 425

(BY SENATORS MINARD, JENKINS AND DEEM)

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AN ACT to amend and reenact §46A-4-111 of the Code of West Virginia, 1931, as amended, relating to refinancing or consolidation of certain loans or consumer credit sales by regulated consumer lenders; requiring disclosure of a higher annual percentage rate in any refinancing or consolidation of a nonrevolving consumer loan or consumer credit sale; and requiring a documentation of a reasonable, net tangible benefit to the borrower of any refinancing or consolidation of a nonrevolving consumer loan or consumer credit sale secured by residential real estate.

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

That §46A-4-111 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 4. REGULATED CONSUMER LENDERS.**

**§46A-4-111. Disclosure of higher annual percentage rate upon refinancing of a loan not secured by real estate at higher rate; requiring documentation of a**

**reasonable net tangible benefit to the borrower  
of any refinancing of a real estate secured loan.**

1 (1) Any nonrevolving consumer loan or consumer credit  
2 sale that is not secured by residential real estate that is  
3 refinanced or consolidated with a new loan under this  
4 article after September 1, 2009, at a higher annual per-  
5 centage rate than the consumer loan or consumer credit  
6 sale being refinanced must provide the consumer the  
7 following disclosures:

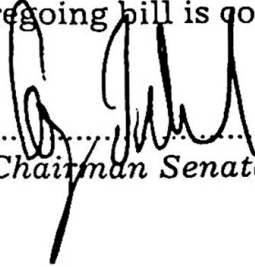
8 "If you do agree to refinance or consolidate your existing  
9 obligation, you will be paying an annual percentage rate  
10 of \_\_\_\_% on the existing balance of \$\_\_\_\_, instead of the  
11 annual percentage rate of \_\_\_\_% which you are now  
12 paying.

13 I acknowledge receipt of this information \_\_\_\_\_  
14 (initials of borrower)."

15 Nothing in this subsection shall prohibit the receipt of  
16 goods or services by the borrower at the time the consoli-  
17 dated loan agreement is made, nor shall this subsection  
18 prohibit or pertain to any loan where the refinancing or  
19 consolidation results in the consumer paying the same or  
20 a lower annual percentage rate.

21 (2) No nonrevolving consumer loan or consumer credit  
22 sale that is secured by residential real estate may be  
23 refinanced or consolidated with a new loan secured by  
24 residential real estate and made under this article unless  
25 the new loan has a reasonable, tangible net benefit to the  
26 borrower considering all of the circumstances, including  
27 the terms of both the new and the refinanced loans, the  
28 cost of the new loan and the borrower's circumstances.  
29 The reasonable, tangible net benefit shall be documented  
30 in writing on a form prescribed by the commissioner and  
31 maintained in the loan file.

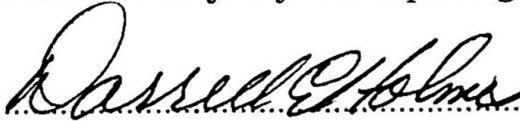
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman Senate Committee


  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within is approved this the 5<sup>th</sup>  
Day of March, 2009.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAY 5 2009

Time 11:10am