

SB 476

FILED

2009 APR 30 PM 4: 09

**WEST VIRGINIA LEGISLATURE**

OFFICE OF THE CLERK  
SECRETARY OF STATE

**SEVENTY-NINTH LEGISLATURE**

**REGULAR SESSION, 2009**

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**ENROLLED**

**Senate Bill No. 476**

(BY SENATORS MINARD, JENKINS AND PLYMALE)

[Passed April 8, 2009; in effect ninety days from passage.]

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AN ACT to amend and reenact §31A-2A-1 of the Code of West Virginia, 1931, as amended, relating to providing that the definition of “financial institution” includes regulated consumer lenders, residential mortgage lenders, brokers and servicers, licensed money services businesses and all entities which are by law under the jurisdiction and supervision of the Commissioner of Banking.

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

That §31A-2A-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2A. MAXWELL GOVERNMENTAL ACCESS TO FINANCIAL RECORDS ACT.**

**§31A-2A-1. Definitions.**

- 1 As used in this article:
- 2 (a) “Customer” means any person or his or her duly
- 3 authorized representative who has transacted business

4 with or has used the services of a financial institution or  
5 for whom a financial institution has acted as a fiduciary in  
6 relation to an account maintained in such person's name;

7 (b) "Financial institution" means a bank, a savings and  
8 loan association, a trust company or a credit union  
9 chartered pursuant to any state or federal law, a regulated  
10 consumer lender licensed under article four, chapter forty-  
11 six-a of this code, a mortgage lender broker or servicer  
12 licensed under article seventeen, chapter thirty-one of this  
13 code, a money service business licensed under article two,  
14 chapter thirty-two-a of this code or other institutions  
15 which are by law under the jurisdiction and supervision of  
16 the Commissioner of Banking;

17 (c) "Financial record" means the original or a copy of  
18 any record or document held by a financial institution  
19 pertaining to a customer of the financial institution,  
20 including any record of a transaction conducted by means  
21 of a customer bank communication terminal or other  
22 electronic device. "Financial record" also means any  
23 information derived from such records or documents;

24 (d) "Investigation" includes, but is not limited to, any  
25 inquiry by a state or local law-enforcement officer, sheriff  
26 or prosecuting attorney or any inquiry made by a state or  
27 local governmental entity for the purpose of determining  
28 whether there has been a violation of any law which is  
29 punishable by imprisonment or by a fine or other mone-  
30 tary liability;

31 (e) "Person" means an individual, partnership, corpora-  
32 tion, limited liability company, association, trust or any  
33 other legal entity;

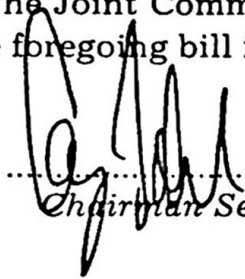
34 (f) "State entity" means any state or local governmental  
35 office, officer, department, division, bureau, board or  
36 commission, including the Legislature, and any other state

37 or local government agency of West Virginia, its political  
38 subdivisions and any agent thereof; and

39 (g) "Subpoena" includes a subpoena duces tecum or any  
40 other lawful subpoena to compel testimony or the disclo-  
41 sure or production of documents.

A handwritten signature in black ink, appearing to be "R. M. ...", located at the bottom of the page.

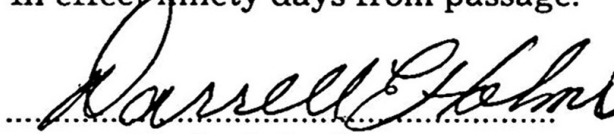
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman Senate Committee

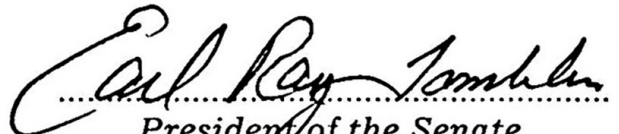
  
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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
.....  
President of the Senate

  
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Speaker House of Delegates

The within is appended ..... this the 30<sup>th</sup>  
Day of April ....., 2009.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 27 2009

Time 2:15 pm