

Senate Bill No. 51

(By Senators Minard and Barnes)

[Introduced January 12, 2011; referred to the Committee on
Banking and Insurance.]

**FISCAL
NOTE**

A BILL to amend and reenact §46A-7-115 of the Code of West Virginia, 1931, as amended, relating to consumer credit and protection generally; requiring persons engaged in making consumer credit sales and certain other consumer-related activities to register with the Commissioner of Banking instead of filing a notification with the Tax Division; setting forth the provisions of a registration form; providing for a registration fee; and exempting certain other organizations and individuals from the registration requirements.

Be it enacted by the Legislature of West Virginia:

That §46A-7-115 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7. ADMINISTRATION.

§46A-7-115. Notification.

1 (1) Every person engaged in this state in making consumer
2 credit sales or consumer loans, including any person subject to the
3 provisions of section five-a, article twenty-three, chapter eleven
4 of this code, as a result of their consumer lending or any person
5 who regularly purchases retail installment contracts or other
6 consumer paper from a business with which it is affiliated, and
7 every person having an office or place of business in this state
8 who takes assignments of and undertakes direct collection of
9 payments from or enforcement of rights against debtors arising from
10 ~~such~~ the sales or loans, shall ~~file notification~~ register with the
11 ~~state Tax Department~~ the commissioner within thirty days after
12 commencing business in this state and, thereafter, on or before ~~the~~
13 ~~thirty-first day of~~ January 31 of each year. ~~A notification shall~~
14 ~~be deemed to be in compliance with this section if the information~~
15 ~~hereinafter required is given in an application for a business~~
16 ~~registration certificate provided for in section four, article~~
17 ~~twelve, chapter eleven of this code.~~ The ~~State Tax~~ commissioner
18 shall make any registration information required by this section
19 available to the Attorney General ~~or commissioner~~ upon request.
20 The ~~notification~~ registration shall be in a form prescribed by the
21 commissioner, accompanied by a registration fee of \$150 and shall
22 contain any information as the commissioner may require and, in
23 addition, shall state:

24 (a) The name of the person;

1 (b) The name in which business is transacted if different from
2 subdivision (a) of this subsection;

3 © The address of the principal office, which may be outside
4 this state;

5 (d) The address of all of its offices, if any, in this state
6 at which consumer loans are made, or in the case of a lender credit
7 card, a description of its affiliation to any store chain, or
8 national or regional credit card acceptance system, or in the case
9 of a person taking assignments of obligations, the offices or
10 places of business within this state at which business is
11 transacted;

12 (e) If consumer credit sales or consumer loans, including
13 loans secured by real property, are made otherwise than at its
14 retail store or office in this state, a brief description of the
15 manner in which they are made; and

16 (f) The address of the designated agent upon whom service of
17 process may be made in this state. ~~and~~

18 ~~(g) Whether regulated consumer loans are made.~~

19 (2) If information in a ~~notification~~ registration becomes
20 inaccurate after filing, accurate information ~~must~~ shall be filed
21 within thirty days.

22 (3) The provisions of this section are not applicable to a
23 seller whose credit sales consist entirely of sales made pursuant
24 to a seller's credit card ~~so~~ as long as the issuer of the card has

1 fully complied with the provisions of this section, nor are the
2 provisions of this section applicable to a person whose consumer
3 lending in West Virginia is incidental and confined to access
4 through a nonproprietary automatic teller machine or similar
5 electronic communication terminal. This section is not applicable
6 to federally insured depository institutions or to other persons
7 licensed, regulated or chartered by the commissioner pursuant to
8 article four of this chapter, article seventeen, chapter thirty-one
9 of this code or chapters thirty-one-a and thirty-one-c of this
10 code.

NOTE: The purpose of this bill is to require persons engaged in making consumer credit sales and certain other consumer related activities to register with the Commissioner of Banking instead of filing a notification with the Tax Division. The bill sets forth registration form requirements and provides a registration fee. Under the bill, certain other organizations and individuals are exempted from the registration requirements.

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