

1 **H. B. 4255**

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3 (By Delegates Moore, Reynolds and Azinger)  
4 [Introduced January 23, 2012; referred to the  
5 Committee on Banking and Insurance then the Judiciary.]  
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10 A BILL to amend and reenact §46A-4-111 of the Code of West  
11 Virginia, 1931, as amended, relating to the requirement of  
12 written documentation of a reasonable net tangible benefit to  
13 the borrower of any refinancing of a real estate secured loan  
14 by a regulated consumer lender, clarifying that the  
15 requirement applies to any refinancing that occurs within  
16 twenty-four months of the date of the original consumer loan  
17 or consumer credit sale secured by residential real estate.

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

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

21 **ARTICLE 4. REGULATED CONSUMER LENDERS.**

22 **§46A-4-111. Disclosure of higher annual percentage rate upon**  
23 **refinancing of a loan not secured by real estate**

1                   **at higher rate; requiring documentation of a**  
2                   **reasonable net tangible benefit to the borrower of**  
3                   **any refinancing of a real estate secured loan.**

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

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

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

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

21           (2) No nonrevolving consumer loan or consumer credit sale that  
22 is secured by residential real estate may be refinanced or  
23 consolidated with a new loan secured by residential real estate and  
24 made under this article within twenty-four months of the date of

1 the original consumer loan or consumer credit sale secured by  
2 residential real estate, unless the new loan has a reasonable,  
3 tangible net benefit to the borrower considering all of the  
4 circumstances, including the terms of both the new and the  
5 refinanced loans, the cost of the new loan and the borrower's  
6 circumstances. The reasonable, tangible net benefit shall be  
7 documented in writing on a form prescribed by the commissioner and  
8 maintained in the loan file.

NOTE: The purpose of this bill is to require regulated consumer lenders to provide a substantial benefit or a substantial benefit disclosure form only for loans refinanced within twenty-four months of original loan.

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