

**H. B. 2926**

(By Delegates Folk, Ashley, Walters and Frich)

[Introduced February 24, 2015; referred to the  
Committee on Banking and Insurance then Finance.]

A BILL to amend and reenact §46A-3-114 of the Code of West Virginia, 1931, as amended, relating to making and collecting deferral charges in connection with a consumer credit sale or consumer loan, refinancing or consolidation; making and collecting modification charges in connection with a consumer credit sale or consumer loan, refinancing or consolidation; specifying the requirements for a modification; and requiring the Commissioner of Financial Institutions to prescribe by rule the method or procedure for the calculation of deferral charges for certain consumer credit sale or consumer loans.

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

That §46A-3-114 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.**

**§46A-3-114. Deferral and modification charges.**

(1) With respect to a ~~precomputed~~ consumer credit sale or consumer loan, refinancing or

1 consolidation, the parties before or after default may agree in writing to a deferral of all or part of  
2 one or more unpaid installments, and the seller or lender may make and collect a deferral charge. ~~not~~  
3 ~~exceeding the amount of the sales finance charge or loan finance charge attributable to the first of~~  
4 ~~the deferred monthly installment periods multiplied by number of months in the deferral period (the~~  
5 ~~period in which no payment is required or made by reason of a deferral):~~ Provided, That no  
6 ~~installment on which a delinquency charge has been collected or partial payment made shall be~~  
7 ~~deferred unless the amount of the delinquency charge or partial payment is first applied to the~~  
8 ~~deferral charge. If prepayment in full occurs during a deferral period, the portion of the deferral~~  
9 ~~charge attributable to the unexpired full months in the deferral period shall be also rebated.~~

10 (2) The seller or lender, in addition to the deferral charge, may make appropriate additional  
11 charges, and the amount of these charges which is not paid in cash may be added to the amount  
12 deferred for the purpose of calculating the deferral charge.

13 (3) The parties may agree in writing at the time of a ~~precomputed~~ consumer credit sale or  
14 consumer loan, refinancing or consolidation that if an installment is not paid within ten days after  
15 its due date as originally scheduled or as deferred, the seller or lender may unilaterally grant a  
16 deferral and make charges as provided in this section. No deferral charge may be made for a period  
17 after the date on which the seller or lender elects to accelerate the maturity of the agreement.

18 (4) With respect to a consumer credit sale or consumer loan, refinancing or consolidation,  
19 the parties before or after default may agree in writing to a modification of the consumer credit sale  
20 or consumer loan, and the seller or lender may make and collect a modification charge. For purposes  
21 of this section, a modification shall include an amendment, modification, restatement, replacement,  
22 consolidation, renewal, refinancing, substitution or extension of the consumer credit sale or

- 1 consumer loan. The amount of the modification charge which is not paid in cash may be added to  
2 the outstanding balance of the consumer credit sale or consumer loan.
- 3       ~~(4)~~ (5) The commissioner shall prescribe by rule the method or procedure for the calculation  
4 of deferral charges consistent with the other provisions of this chapter where the ~~precomputed~~  
5 consumer credit sale or consumer loan is payable in unequal or irregular installments.

NOTE: The purpose of this bill is to allow deferral charges and modification charges to be imposed and collected in connection with a consumer loan.

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