

H. B. 2926

(BY DELEGATE(S) FOLK,
ASHLEY AND WALTERS)

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

A BILL to amend and reenact §46A-3-114 of the Code of West Virginia, 1931, as amended, relating to deferral charges in connection with a consumer credit sale or consumer loan, refinancing or consolidation, modification charges in connection with a consumer credit sale or consumer loan, refinancing or consolidation, and defining a modification.

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 (1) With respect to a ~~precomputed~~ consumer credit sale or
2 consumer loan, refinancing or consolidation, the parties before
3 or after default may agree in writing to a deferral of all or part of
4 one or more unpaid installments, and the seller or lender may
5 make and collect a deferral charge. ~~not exceeding the amount of~~
6 ~~the sales finance charge or loan finance charge attributable to the~~
7 ~~first of the deferred monthly installment periods multiplied by~~
8 ~~number of months in the deferral period (the period in which no~~
9 ~~payment is required or made by reason of a deferral): Provided;~~
10 ~~That no installment on which a delinquency charge has been~~
11 ~~collected or partial payment made shall be deferred unless the~~
12 ~~amount of the delinquency charge or partial payment is first~~
13 ~~applied to the deferral charge. If prepayment in full occurs~~
14 ~~during a deferral period, the portion of the deferral charge~~
15 ~~attributable to the unexpired full months in the deferral period~~
16 ~~shall be also rebated.~~
- 17 (2) The seller or lender, in addition to the deferral charge,
18 may make appropriate additional charges, and the amount of

19 these charges which is not paid in cash may be added to the
20 amount deferred for the purpose of calculating the deferral
21 charge.

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

30 (4) With respect to a consumer credit sale or consumer loan,
31 refinancing or consolidation, the parties before or after default
32 may agree in writing to a modification of the consumer credit
33 sale or consumer loan, and the seller or lender may make and
34 collect a modification charge. For purposes of this section, a
35 modification shall include an amendment, modification,
36 restatement, replacement, consolidation, renewal, refinancing,
37 substitution or extension of the consumer credit sale or consumer
38 loan. The amount of the modification charge which is not paid

39 in cash may be added to the outstanding balance of the consumer
40 credit sale or consumer loan.
41 ~~(4)~~ (5) The commissioner shall prescribe by rule the method
42 or procedure for the calculation of deferral charges consistent
43 with the other provisions of this chapter where the ~~precomputed~~
44 consumer credit sale or consumer loan is payable in unequal or
45 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.