

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 401**

BY SENATOR NELSON

[Originating in the Committee on the Judiciary;

reported on March 25, 2021]



1 A BILL to amend and reenact §46A-5-104 of the Code of West Virginia, 1931, as amended; and  
2 to amend and reenact §46A-5-108 of said code, all relating to the Consumer Credit and  
3 Protection Act; excluding time, savings, and demand accounts offered by a bank from  
4 general consumer protection claims; and providing for an effective date.

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

**ARTICLE 6. GENERAL CONSUMER PROTECTION.**

**§46A-6-105. Exempted transactions.**

1 (a) This article does not apply to acts done by the publisher, owner, agent, or employee  
2 of a newspaper, periodical, or radio or television station in the publication or dissemination of an  
3 advertisement, when the owner, agent, or employee did not have knowledge of the false,  
4 misleading, or deceptive character of the advertisement, did not prepare the advertisement, and  
5 did not have a direct financial interest in the sale or distribution of the advertised goods or services.

6 (b) This article does not apply to time, savings, or demand deposit accounts provided by  
7 a bank as defined in §31A-1-2 of this code.

**ARTICLE 8. OPERATIVE DATE AND PROVISIONS FOR TRANSITION.**

**§46A-8-101. Time of becoming operative; provisions for transition; enforceability of prior transactions; applicability and effective dates of amendments.**

1 (a) Except as otherwise provided in this section, this chapter shall become operative at  
2 12:01 a.m. on September 1, 1974.

3 (b) Notwithstanding the provisions of subsection (a) of this section, in order to allow  
4 sufficient time to prepare for the implementation and operation of this chapter and to act on  
5 applications for licenses to make regulated consumer loans under this chapter as amended, the  
6 provisions of §46A-4-1 *et seq.* of this code relating to regulated consumer lenders, and the  
7 provisions of §46A-7-1 *et seq.* of this code relating to their administration, shall, to the extent  
8 necessary, become operative for such purposes at 12:01 a.m. on September 1, 1996.

9 (c) Transactions entered into before this chapter becomes operative and the rights,  
10 duties, and interests flowing from them thereafter may be terminated, completed, consummated,  
11 or enforced as required or permitted by any statute, rule of law, or other law amended, repealed,  
12 or modified by this chapter as though the repeal, amendment, or modification had not occurred,  
13 but this chapter applies to:

14 (1) Refinancings and consolidations made after this chapter becomes operative of  
15 consumer credit sales, consumer leases, and consumer loans whenever made;

16 (2) Consumer credit sales or consumer loans made after this chapter becomes operative  
17 pursuant to revolving charge accounts or revolving loan accounts entered into, arranged, or  
18 contracted for before this chapter becomes operative; and

19 (3) All consumer credit transactions made before this chapter becomes operative insofar  
20 as this chapter limits the remedies of creditors.

21 (d) *Applicability.* —

22 (1) The amendments made during the regular session of the Legislature, 2017, to §46A-  
23 2-105 of this code shall apply to consumer credit sales or consumer loans entered into on after  
24 the effective date of those amendments. The amendments made during the regular session of  
25 the Legislature, 2017, to §46A-2-128 and §46A-2-140 of this code, shall apply to all causes of  
26 accruing on or after the effective date of those amendments. The amendments made during the  
27 regular session of the Legislature, 2017, to §46A-2-122 and §46A-5-108 of this code shall apply  
28 to all causes of action filed on or after the effective date of those amendments.

29 (2) The amendments made during the regular session of the Legislature, 2021, to §46A-  
30 5-104, §46A-5-108, §46A-5-109, §46A-6-105, and §46A-6-106 of this code shall apply to all  
31 causes of action filed on or after the effective date of those amendments.