

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 4381

By Delegate Hite

[Originating in the Committee on the Judiciary;

Reported on February 9, 2024]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §46A-9-1, §46A-9-2, and §46A-9-3, all relating to the enactment of the West
3 Virginia Consumer Privacy Act of 2024; providing definitions; providing prohibitions on
4 disclosures or sales of certain consumer financial information; authorizing a customer to
5 opt-in to certain disclosures; creating exceptions for certain financial institutions for sharing
6 consumer information with a credit reporting agency; requiring certain information to be
7 provided to consumers; providing for civil remedies; and providing for enforcement actions
8 of the Attorney General.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. THE WEST VIRGINIA CONSUMER PRIVACY ACT OF 2024.

**§46A-9-1. Definitions; prohibitions on disclosure or sale of financial information;
authorizing a consumer to opt-in to certain disclosures; information to be provided
to consumers.**

1 (a) For purposes of this article:

2 (1) "Consumer" means a natural person engaged in a consumer transaction.

3 (2) "Consumer financial information" means any personally identifiable financial
4 information, unless the information is otherwise publicly available, and includes information that a
5 credit report was obtained by a financial institution, creditor, mortgage lender, or mortgage broker.

6 (3) "Credit reporting agency" shall have the meaning assigned in 15 U. S. Code §1681a.

7 (4) "Consumer transaction" means any legal financial agreement for which a credit
8 application is required for a personal, family, household, or agricultural purpose.

9 (b) A credit reporting agency which receives consumer financial information resulting from
10 a consumer transaction with any financial institution or any creditor utilizing any credit reporting
11 agency shall not disclose or sell such consumer financial information without the prior written
12 consent of the consumer, except as required to process the consumer transaction.

13 (c) A consumer engaged in a consumer transaction with any financial institution, creditor
14 utilizing any credit reporting agency, or private business, shall have the right to opt-in to each
15 disclosure or sale of their personal financial information by the credit reporting agency. This
16 includes information that a credit report was obtained by, but not limited to, the following:

17 (1) Financial institutions;

18 (2) Creditors;

19 (3) Mortgage lenders; or

20 (4) Mortgage brokers.

21 (d) The credit reporting agency shall provide the consumer with all information to
22 determine what personal information is being sold or shared.

23 (e) Financial institutions, creditors, mortgage lenders, or mortgage brokers shall not be
24 subject to any action authorized by this article for sharing consumer information with a credit
25 reporting _____ agency.

§46A-9-2. Enforcement.

1 The Attorney General may enforce the provisions of this article and may bring an action
2 seeking either:

3 (1) Injunctive or other appropriate equitable relief;

4 (2) Civil penalties of no more than \$10,000 for each violation of this article and all costs and
5 attorney's fees associated with bringing the action; or

6 (3) Both the equitable relief and civil penalties described in subdivisions (1) and (2) of this
7 subsection, including costs and attorney's fees. This action must be brought in the name of the
8 state and instituted in the circuit court of Kanawha County. The Attorney General may negotiate a
9 settlement with any alleged violator in the course of his or her enforcement of this article.

§46A-9-3. Civil remedies.

1 (a) A consumer may bring a civil action for damages against any credit reporting agency
2 that violates the provisions of this article. For each violation, the individual may recover:

3 (1) Against credit reporting agency who negligently or recklessly violates this article,
4 liquidated damages of \$1,000 for each violation or actual damages, whichever is greater; or

5 (2) Against credit reporting agency who intentionally violates this article, liquidated
6 damages of \$5,000 for each violation or actual damages, whichever is greater.

7 (b) If a court finds that a violation of this article has occurred as the result of a civil action
8 filed pursuant to subsection (a) of this section, the court shall award reasonable attorney's fees to
9 the aggrieved party. A court may order such other relief, including an injunction, as the court may
10 consider appropriate.

11 (c) Any action under this article is barred unless the action is commenced within two years
12 after the aggrieved party either knew or, through reasonable diligence, should have known of the
13 violation.