

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENROLLED

House Bill 3162

BY DELEGATES FLANIGAN AND ROOP

[Passed April 12, 2025; in effect 90 days from
passage (July 11, 2025)]

1 AN ACT to amend and reenact §46A-2-122 and §55-7-8a of the Code of West Virginia, 1931, as
2 amended, all relating to consumer credit and protection actions; amending definitions; and
3 clarifying that any action for a violation of Chapter 46A of this code shall survive the death
4 of the person entitled to recover or the death of the person liable.

Be it enacted by the Legislature of West Virginia:

CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT.

ARTICLE 2. CONSUMER CREDIT PROTECTION.

§46A-2-122. Definitions.

1 For the purposes of this section and sections one hundred twenty-three, one hundred
2 twenty-four, one hundred twenty-five, one hundred twenty-six, one hundred twenty-seven, one
3 hundred twenty-eight, one hundred twenty-nine and one hundred twenty-nine-a of this article, the
4 following terms shall have the following meanings:

5 (a) "Consumer" means any natural person obligated or allegedly obligated to pay any debt
6 and includes any duly appointed personal representative of the estate of a natural person
7 obligated or allegedly obligated to pay any debt.

8 (b) "Claim" means any obligation or alleged obligation of a consumer to pay money arising
9 out of a transaction in which the money, property, insurance or service which is the subject of the
10 transaction is primarily for personal, family or household purposes, whether or not such obligation
11 has been reduced to judgment.

12 (c) "Debt collection" means any action, conduct or practice of soliciting claims for collection
13 or in the collection of claims owed or due or alleged to be owed or due by a consumer.

14 (d) "Debt collector" means any person or organization engaging directly or indirectly in
15 debt collection. The term includes any person or organization who sells or offers to sell forms
16 which are, or are represented to be, a collection system, device or scheme, and are intended or

17 calculated to be used to collect claims. The term excludes attorneys representing creditors
18 provided the attorneys are licensed in West Virginia or otherwise authorized to practice law in the
19 state of West Virginia and handling claims and collections in their own name as an employee,
20 partner, member, shareholder or owner of a law firm and not operating a collection agency under
21 the management of a person who is not a licensed attorney.

CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-8a. Actions which survive; limitations; law governing such actions.

1 (a) In addition to the causes of action which survive at common law, causes of action for
2 injuries to property, real or personal, injuries to the person and not resulting in death, deceit or
3 fraud, or any violations of §46A-1-101 *et. seq.* of this code, also survive; and such actions may
4 be brought notwithstanding the death of the person entitled to recover or the death of the person
5 liable.

6 (b) If any action is begun during the lifetime of the injured party, and within the period of
7 time permissible under the applicable statute of limitations as provided by §55-2-1 *et seq.* of this
8 code and §55-2A-1 *et seq.* of this code, (either against the wrongdoer or his or her personal
9 representative), and the injured party dies pending the action it may be revived in favor of the
10 personal representative of the injured party and prosecuted to judgment and execution against
11 the wrongdoer or personal representative.

12 (c) If the injured party dies before having begun an action and it is not at the time of his or
13 her death barred by the applicable statute of limitations under the provisions of §55-2-1 *et seq.* of
14 this code and §55-2A-1 *et seq.* of this code the action may be begun by the personal
15 representative of the injured party against the wrongdoer or personal representative and
16 prosecuted to judgment and execution against the wrongdoer or his or her personal

representative. Any action shall be instituted within the same period of time that would have been applicable had the injured party not died.

(d) If an action mentioned in the subsections (a), (b) and/or (c) of this section have been begun against the wrongdoer and he or she dies during the pendency thereof, it may be revived against the personal representative of the wrongdoer and prosecuted to judgment and execution.

(e) The applicable provisions of §56-8-1 *et seq.* of this code govern the actions hereinabove mentioned, with reference to their abatement, revival, discontinuance, reinstatement, and substitution of parties.

(f) Nothing contained in this section shall be construed to extend the time within which an action for any other tort shall be brought, nor to give the right to assign a claim for a tort not otherwise assignable.

The Clerk of the House of Delegates and the Clerk of the Senate hereby
certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect 90 days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2025.

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Governor