

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 4382

By Delegate Burkhammer

[Originating in the Committee on the Judiciary;

Reported on February 2, 2026]

1 A BILL to amend and reenact §47-16-4 of the Code of West Virginia, 1931, as amended, relating to
2 requiring collection agencies to notify debtors of wage garnishments by regular mail 30
3 days prior to the initial garnishment; and to send monthly statements showing balance
4 owed.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. COLLECTION AGENCIES.

§47-16-4. Requirements for conduct of agency.

1 (a) *License.* — No person, firm, corporation or association ~~shall~~ may conduct within this
2 state a collection agency without having first applied for and obtained a business franchise
3 registration certificate pursuant to §11-12-2 of this code, nor ~~shall~~ may any person, firm,
4 corporation or association establish or operate a collection agency or the business of a collection
5 agency, unless such person, firm, corporation or association maintains an office within the State of
6 West Virginia. The business franchise registration certificate shall be deemed the collection
7 agency's license. A license is required for each collection agency, including each principal office
8 and all branch offices thereof.

9 (b) *Bond.* — Each applicant shall file with the commissioner a continuing surety bond
10 executed by a corporation which is licensed to transact the business of fidelity and surety
11 insurance in the State of West Virginia to run concurrently with the registration tax period, which
12 bond ~~must~~ shall be filed with, and approved by, said commissioner before the license herein
13 provided may be issued. A separate bond shall be filed for each collection agency including each
14 principal office and all branch offices thereof. Each bond shall be in the amount of \$5,000 payable
15 to the State of West Virginia, and conditioned that any such person will pay all damages to the
16 state or a private person resulting from any unlawful act or action by ~~such~~ that person or his or her
17 or its agent in connection with the conduct of the business of the collection agency. This continuing
18 bond shall be filed with the Tax Commissioner.

19 An action may be brought in any court of competent jurisdiction upon the bond by any
20 person to whom the licensee fails to account and pay as set forth in ~~such~~ that bond. The aggregate
21 liability of the surety for all breaches of the condition of the bond ~~shall~~ may not exceed the sum of
22 ~~such~~ the bond.

23 Upon entering judgment for the prevailing party in any action on the bond required by this
24 article, the court shall include in the judgment, reasonable compensation for the services of ~~such~~
25 the party's attorney in the action.

26 The license of any licensee shall be void upon termination of the bond of the surety
27 company, unless, prior to ~~such~~ termination, a new bond has been filed with the commissioner.

28 ~~Should~~ If the license of any surety company to transact business in this state ~~be~~ is
29 terminated, all bonds given pursuant to this article upon which ~~such~~ the company is surety shall
30 thereupon be suspended, and the commissioner shall immediately notify each affected licensee of
31 ~~such~~ the suspension and require that a new bond be filed. This notice shall be by registered or
32 certified mail, return receipt requested, and shall be addressed to the licensee at his or her or its
33 principal place of business as shown by the commissioner's records. The failure of any licensee to
34 file a bond with new or additional surety within 30 days after being advised in writing by the
35 commissioner of the necessity to do so shall be cause for the commissioner to revoke the license.

36 (c) *Record Keeping.* — Each collection agency licensed to operate in this state shall keep a
37 record of all sums collected by ~~such~~ the agency and of all disbursements made by ~~such~~ the
38 agency, and shall maintain or make available all ~~such~~ records and all records as to customers'
39 funds at ~~such~~ the agency's principal place of business within this state. Each collection agency
40 shall maintain records of collections for and payments to customers for a period of six years from
41 the date of last entry therein.

42 No collection agency, nor any employee thereof, ~~shall~~ may intentionally make a false entry
43 in any ~~such~~ collection agency record nor intentionally mutilate, destroy or otherwise dispose of any

44 ~~such~~ record within the time limits provided in this section. ~~Such~~ The records shall at all times be
45 open for inspection by the commissioner, or his or her duly appointed representative.

46 No licensee ~~shall~~ may commingle the money of collection agency customers with other
47 moneys, but shall maintain a separate trust account in a bank for customers' funds.

48 Each collection agency shall, within a period of 30 days after the close of each and every
49 calendar month, pay to ~~such~~ the agency's customers the net proceeds due on all collections made
50 during the preceding calendar month. When the net proceeds due the customer are less than \$5 at
51 the end of any calendar month, the collection agency may defer for a period not to exceed ninety
52 days the payment of said proceeds, if monthly statements are mailed or delivered to the customer.

53 (d) Collection agencies may not cause a garnishment of wages to be executed for an
54 unpaid debt, unless the collection agency provides the debtor with written notice of the intended
55 garnishment by United States Postal Service regular mail to the debtor's last known address at
56 least 30 days prior to the initial garnishment of wages. Following the initial garnishment, the
57 collection agency shall provide the debtor with a monthly statement by United States Postal
58 Service regular mail indicating the amount collected by garnishment of wages and the remaining
59 balance of the debt owed.

60 (e) Nothing contained in this article prohibits the application of the provisions of Chapter
61 46A of this code.