

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 4651**

By Delegate Funkhouser

[Introduced January 21, 2026; referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §46A-2-128 of the Code of West Virginia, 1931, as amended,  
 2 relating to permitting the collection of interest or attempts to collect any interest or other  
 3 charge, fee or expense on a debt when that charge or expense is expressly authorized by  
 4 either the agreement creating or modifying the obligation or by statute or regulation instead  
 5 of requiring both the agreement and a statute tor regulation.

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

**ARTICLE                    2.                    CONSUMER                    CREDIT                    PROTECTION.**  
**§46A-2-128.                    Unfair                    or                    unconscionable                    means.**

1 No debt collector may use unfair or unconscionable means to collect or attempt to collect  
 2 any claim. Without limiting the general application of the foregoing, the following conduct is  
 3 deemed to violate this section:

4 (a) The seeking or obtaining of any written statement or acknowledgment in any form that  
 5 specifies that a consumer's obligation is one incurred for necessities of life where the original  
 6 obligation was not in fact incurred for such necessities;

7 (b) The seeking or obtaining of any written statement or acknowledgment in any form  
 8 containing an affirmation of any obligation by a consumer who has been declared bankrupt except  
 9 where such affirmation is obtained pursuant to applicable bankruptcy law;

10 (c) The collection or the attempt to collect from the consumer all or any part of the debt  
 11 collector's fee or charge for services rendered: *Provided*, That attorney's fees, court costs and  
 12 other reasonable collection costs and charges necessary for the collection of any amount due  
 13 upon delinquent educational loans made by any institution of higher education within this state  
 14 may be recovered when the terms of the obligation so provide. Recovery of attorney's fees and  
 15 collection costs may not exceed 33 and one-third percent of the amount due and owing to any  
 16 such institution: *Provided, however*, That nothing contained in this subsection shall be construed  
 17 to limit or prohibit any institution of higher education from paying additional attorney fees and  
 18 collection costs as long as such additional attorney fees and collection costs do not exceed an

19 amount equal to five percent of the amount of the debt actually recovered and such additional  
20 attorney fees and collection costs are deducted or paid from the amount of the debt recovered for  
21 the institution or paid from other funds available to the institution;

22 (d) The collection of or the attempt to collect any interest or other charge, fee or expense  
23 incidental to the principal obligation unless such interest or incidental fee, charge or expense is  
24 expressly authorized by the agreement creating or modifying the obligation ~~and~~ or by statute or  
25 regulation;

26 (e) Any communication with a consumer made more than three business days after the  
27 debt collector receives written notice from the consumer or his or her attorney that the consumer is  
28 represented by an attorney specifically with regard to the subject debt. To be effective under this  
29 subsection, such notice must clearly state the attorney's name, address and telephone number  
30 and be sent by certified mail, return receipt requested, to the debt collector's registered agent,  
31 identified by the debt collector at the office of the West Virginia Secretary of State or, if not  
32 registered with the West Virginia Secretary of State, then to the debt collector's principal place of  
33 business. Communication with a consumer is not prohibited under this subsection if the attorney  
34 fails to answer correspondence, return phone calls or discuss the obligation in question, or if the  
35 attorney consents to direct communication with the consumer. Regular account statements  
36 provided to the consumer and notices required to be provided to the consumer pursuant to  
37 applicable law shall not constitute prohibited communications under this section; and

38 (f) When the debt is beyond the statute of limitations for filing a legal action for collection,  
39 failing to provide the following disclosure informing the consumer in all written communication with  
40 such consumer that:

41 (1) When collecting on a debt that is not past the date for obsolescence provided for in  
42 Section 605(a) of the Fair Credit Reporting Act, 15 U. S. C. 1681c: "The law limits how long you  
43 can be sued on a debt. Because of the age of your debt, (INSERT OWNER NAME) cannot sue you  
44 for it. If you do not pay the debt, (INSERT OWNER NAME) may report or continue to report it to the

45 credit reporting agencies as unpaid”; and  
46 (2) When collecting on debt that is past the date for obsolescence provided for in Section  
47 605(a) of the Fair Credit Reporting Act, 15 U. S. C. 1681c: “The law limits how long you can be  
48 sued on a debt. Because of the age of your debt, (INSERT OWNER NAME) cannot sue you for it  
49 and (INSERT OWNER NAME) cannot report it to any credit reporting agencies.”

NOTE: The purpose of this bill is to permit the collection of interest or attempts to collect any interest or other charge, fee or expense on a debt when that charge or expense is expressly authorized by either the agreement creating or modifying the obligation or by statute or regulation instead of requiring both the agreement and a statute for regulation.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.