

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 or 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 or 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.