WEST VIRGINIA CODE: §31A-2B-8

§31A-2B-8. Civil remedies.

(a) Subject to subsection (c) of this section, a customer may bring a civil action for damages, injunctive relief, or both damages and injunctive relief against any financial institution or government entity that causes the customer's protected financial information to be disclosed in violation of this article. For each violation, the individual may recover:

(1) Against any person who negligently or recklessly violates this article, liquidated damages of $10,000 or actual damages, whichever is greater; or

(2) Against any person who intentionally violates this article, liquidated damages of $25,000 for each or actual damages, whichever is greater.

(b) Subject to subsection (c) of this section, a customer or merchant aggrieved by a violation of §31A-2B-7 of this code may bring a civil action for damages, injunctive relief, or both damages and injunctive relief. Said person may recover liquidated damages of $50,000 or actual damages, whichever is greater.

(c) Right to cure. – Prior to an aggrieved party bringing a civil action pursuant to this section, a financial institution shall have the right to cure an alleged violation of this section, according to the procedures, restrictions, and requirements set forth in §46A-5-108(a) of this code: *Provided*, That both parties must follow the procedures set forth therein.

(d) Attorney's fees. – If a court finds that a violation of this article has occurred as the result of a civil action brought pursuant to subsection (a) or subsection (b) of this section, the court shall award reasonable attorney's fees to the aggrieved party. An award of attorney's fees is subject to the same limitations set forth in §46A-5-108(f) of this code.

(e) Statute of Limitations. – Any action under this article is barred unless the action is commenced within five years after the aggrieved party knows or reasonably should know of the violation. The statute of limitations provided herein is tolled for the 45-day period set forth in §46A-5-108(a) of this code or for the period the effectuation of the cure offer is being performed, whichever is longer.

(f) The remedies provided in this article are the exclusive civil remedies available to an aggrieved party for violations of this article.

WV Legislature