WEST VIRGINIA CODE: §46A-2-119

§46A-2-119. Restrictions on deficiency judgments.

(1) This section applies to a deficiency on a consumer credit sale of goods or services and on a consumer loan in which the lender is subject to claims and defenses arising from sales.

(2) If the seller repossesses or voluntarily accepts surrender of goods which were the subject of the sale and in which he has a security interest and the balance owed for the goods repossessed or surrendered was at the time of such repossession or surrender $1,000 or less, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale of the goods, and the seller's duty to dispose of the collateral is governed by the provisions on disposition of collateral of the "Uniform Commercial Code."

(3) If the seller repossesses or voluntarily accepts a surrender of goods which were not the subject of the sale but in which he has a security interest to secure a debt arising from a sale of goods or services or a combined sale of goods and services and the balance owed on such debt was at the time of such repossession or surrender $1,000 or less, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale, and the seller's duty to dispose of the collateral is governed by the provisions on disposition of collateral of the "Uniform Commercial Code."

(4) If the lender takes possession or voluntarily accepts a surrender of goods in which he has a security interest to secure a debt arising from a consumer loan in which the lender may be subject to claims and defenses arising from sales and the balance owed on the net proceeds of the loan paid to or for the benefit of the borrower was at the time of such repossession or surrender $1,000 or less, the borrower is not personally liable to the lender for the unpaid balance of the debt arising from the loan and the lender's duty to dispose of the collateral is governed by the provisions on disposition of collateral of the "Uniform Commercial Code."

(5) For the purpose of determining the unpaid balance of consolidated debts or debts pursuant to revolving charge accounts or revolving loan accounts, the allocation of payments to a debt shall be determined in the same manner as provided for determining the amount of debt secured by various security interests.

(6) The consumer may be liable in damages to the creditor if the consumer has wrongfully damaged the collateral or if after default and demand, the consumer has wrongfully failed to make the collateral available to the creditor.

(7) If the creditor elects to bring an action against the consumer for a debt arising from a consumer credit sale of goods or services or from a consumer loan in which the lender is subject to claims and defenses arising from sales, when under this section he would not be entitled to a deficiency judgment if he took possession of the collateral, and obtains judgment:

WV Legislature

(a) He may not take possession of the collateral, and

(b) The collateral is not subject to levy or sale on execution or similar proceedings pursuant to the judgment.

WV Legislature