WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

ENROLLED

SENATE BILL NO. 36

(By Senator Anderson, et al)

PASSED March 10, 1994
In Effect 90 days from Passage
AN ACT to amend article two, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one hundred twenty-nine-a; and to amend article five of said chapter by adding thereto three new sections, designated sections one hundred four, one hundred five and one hundred six, all relating to consumer credit protection; prohibiting use of deception in telephone
collection activities; awarding attorney fees, court costs and fees in certain claims; additional penalties for certain willful violations; and providing for the adjustment of damages according to the consumer price index.

Be it enacted by the Legislature of West Virginia:

That article two, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section one hundred twenty-nine-a; and that article five of said chapter be amended by adding thereto three new sections, designated section one hundred four, one hundred five and one hundred six, all to read as follows:

ARTICLE 2. CONSUMER CREDIT PROTECTION.

§46A-2-129a. Deceptive or oppressive telephone calls.

1 No debt collector shall place a telephone call or otherwise communicate by telephone with a consumer or third party, at any place, including a place of employment, falsely stating that the call is “urgent” or an “emergency”.

ARTICLE 5. CIVIL LIABILITY AND CRIMINAL PENALTIES.

§46A-5-104. Attorney fees.

1 In any claim brought under this chapter applying to illegal, fraudulent or unconscionable conduct or any prohibited debt collection practice, the court may award all or a portion of the costs of litigation, including reasonable attorney fees, court costs and fees, to the consumer. On a finding by the court that a claim brought under this chapter applying to illegal, fraudulent or unconscionable conduct or any prohibited debt collection practice was brought in bad faith and for the purposes of harassment, the court may award to the defendant reasonable attorney fees.

§46A-5-105. Willful violations.

1 If a creditor has willfully violated the provisions of this chapter applying to illegal, fraudulent or unconscionable
conduct or any prohibited debt collection practice, in addition to the remedy provided in section one hundred one of this article, the court may cancel the debt when the debt is not secured by a security interest.

§46A-5-106. Adjustment of damages for inflation.

In any claim brought under this chapter applying to illegal, fraudulent or unconscionable conduct or any prohibited debt collection practice, the court may adjust the damages awarded pursuant to section one hundred one to account for inflation from the time that the West Virginia consumer credit and protection act became operative, specifically 12:01 a.m. on the first day of September, one thousand nine hundred seventy-four, to the time of the award of damages in an amount equal to the consumer price index. Consumer price index means the last consumer price index for all consumers published by the United States department of labor.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 30th day of _______, 1994.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/9/44
Time 11:35 Am