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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 111

(By Senators *PITMAN & Snyder*)



PASSED *APRIL 12,* 1997

In Effect *NINETY DAYS FROM* Passage

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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 111

(SENATORS DITTMAR AND SNYDER, *original sponsors*)

[Passed April 12, 1997; in effect ninety days from passage.]

AN ACT to amend article one, 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 eight; and to amend and reenact section one hundred twenty-seven, article two of said chapter, all relating to revisions to the West Virginia consumer credit protection act; providing methods for electronic records retention for persons subject to the act other than banks and credit unions; providing for the admissibility in evidence of such reproduced or copied records; and eliminating certain disclosure requirements for debt collectors under the act.

Be it enacted by the Legislature of West Virginia:

That article one, 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 eight; and that section one hundred twenty-seven, article two of said chapter be amended and reenacted, all to read as follows:

ARTICLE 1. SHORT TITLE, DEFINITIONS AND GENERAL PROVISIONS.

§46A-1-108. Records retention methods.

1 (a) All persons, other than banks and credit unions, who
2 are subject to the provisions of this chapter and who are
3 required to create or maintain records or other documents
4 in the course of their business, may copy or reproduce
5 those records or documents (other than notes, bonds,
6 mortgages and other securities and investments) by any
7 existing and generally accepted method of reproduction or
8 retention technology which conforms to the requirements
9 of section thirty-five, article four, chapter thirty-one-a of
10 this code and may substitute copies or reproductions of
11 the records or documents either in positive or negative
12 form for the originals. A copy or reproduction in the form
13 of a positive print is deemed to be an original counterpart
14 of and has the same force as the original and is admissible
15 in evidence in all courts and administrative agencies in
16 this state for all purposes. The copies or reproductions
17 authorized by this subsection shall be maintained pursu-
18 ant to the records retention requirements applicable to the
19 original records or documents. The original records or
20 documents, once copied or reproduced, may be destroyed
21 or otherwise eliminated.

22 (b) When copies of documents are offered in evidence, all
23 circumstances surrounding the making or issuance of the
24 documents, books, records, correspondence and other
25 instruments, papers or writings, or the photographic,
26 photostatic or microphotographic copies or optical disks
27 or other permissible reproductions represented by the
28 copies, may be shown to affect the weight of the docu-
29 ments as evidence, but not the admissibility.

30 (c) Any device used to copy or reproduce documents and

31 records shall be one which correctly and accurately
32 reproduces the original document or record in all details
33 and any disk or film used for this purpose shall be of
34 durable material.

35 (d) Banks and credit unions may reproduce and main-
36 tain records and documents in conformity with this
37 section as long as the reproduction and maintenance
38 methods used do not conflict with any other provisions of
39 this code applicable to banks or credit unions or with any
40 rule of the commissioner of banking.

ARTICLE 2. CONSUMER CREDIT PROTECTION.

**§46A-2-127. Fraudulent, deceptive or misleading representa-
tions.**

1 No debt collector shall use any fraudulent, deceptive or
2 misleading representation or means to collect or attempt
3 to collect claims or to obtain information concerning
4 consumers. Without limiting the general application of the
5 foregoing, the following conduct is deemed to violate this
6 section:

7 (a) The use of any business, company or organization
8 name while engaged in the collection of claims, other than
9 the true name of the debt collector's business, company or
10 organization;

11 (b) Any false representation that the debt collector has
12 in his possession information or something of value for the
13 consumer that is made to solicit or discover information
14 about the consumer;

15 (c) The failure to clearly disclose the name and full
16 business address of the person to whom the claim has been
17 assigned for collection, or to whom the claim is owed, at
18 the time of making any demand for money;

19 (d) Any false representation or implication of the
20 character, extent or amount of a claim against a consumer,
21 or of its status in any legal proceeding;

22 (e) Any false representation or false implication that any
23 debt collector is vouched for, bonded by, affiliated with or
24 an instrumentality, agent or official of this state or any

25 agency of the federal, state or local government;

26 (f) The use or distribution or sale of any written commu-
27 nication which simulates or is falsely represented to be a
28 document authorized, issued or approved by a court, an
29 official or any other legally constituted or authorized
30 authority, or which creates a false impression about its
31 source, authorization or approval;

32 (g) Any representation that an existing obligation of the
33 consumer may be increased by the addition of attorney's
34 fees, investigation fees, service fees or any other fees or
35 charges when in fact such fees or charges may not legally
36 be added to the existing obligation; and

37 (h) Any false representation or false impression about
38 the status or true nature of or the services rendered by the
39 debt collector or his business.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schomover
.....
Chairman Senate Committee

Mike Fantasia
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carroll E. Bous
.....
Clerk of the Senate

Bryony D. Bous
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

RTS
.....
Speaker House of Delegates

The within *is approved* this the *5th*.....
day of *May*....., 1997.

J. B. Keener
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/28/97

Time

2:20pm