

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 4381

By Delegate Hite

[Originating in the Committee on the Judiciary;

Reported on February 9, 2024]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §46A-9-1, §46A-9-2, and §46A-9-3, all relating to the enactment of the West
3 Virginia Consumer Privacy Act of 2024; providing definitions; providing prohibitions on
4 disclosures or sales of certain consumer financial information; authorizing a customer to
5 opt-in to certain disclosure; requiring certain information to be provided to consumers;
6 providing for civil remedies; and providing for enforcement actions of the Attorney General.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. THE WEST VIRGINIA CONSUMER PRIVACY ACT OF 2024.

**§46A-9-1. Definitions; prohibitions on disclosure or sale of financial information;
authorizing a consumer to opt-in to certain disclosures; information to be provided
to consumers.**

1 (a) For purposes of this article:

2 (1) "Consumer" means a natural person to whom a sale, lease, or offer of a line of credit is
3 made in a consumer transaction.

4 (2) "Consumer financial information" means any personally identifiable financial
5 information, unless the information is otherwise publicly available, and includes information that a
6 credit report was obtained by a financial institution, creditor, mortgage lender, or mortgage broker.

7 (3) "Consumer transaction" means a sale, lease, or offer of a line of credit to a natural
8 person or persons for a personal, family, household, or agricultural purpose.

9 (b) A credit reporting agency which receives consumer financial information resulting from
10 an application for a line of credit from any financial institution or any creditor utilizing any credit
11 reporting agency shall not disclose or sell such consumer financial information without the prior
12 written consent of the consumer, except as required to process the line of credit application.

13 (c) A consumer applying for a line of credit from any financial institution, creditor utilizing
14 any credit reporting agency, or private business, shall have the right to opt-in to each disclosure or

15 sale of their personal financial information. This includes information that a credit report was
16 obtained by, but not limited to, the following:

17 (1) Financial institutions;

18 (2) Creditors;

19 (3) Mortgage lenders; or

20 (4) Mortgage brokers.

21 (d) The consumer shall be given all information to determine what personal information is
22 being sold or shared.

§46A-9-2. Enforcement.

1 The Attorney General may enforce the provisions of this article and may bring an action
2 seeking either:

3 (1) Injunctive or other appropriate equitable relief;

4 (2) Civil penalties of no more than \$10,000 for each violation of this article and all costs and
5 attorney's fees associated with bringing the action; or

6 (3) Both the equitable relief and civil penalties described in subdivisions (1) and (2) of this
7 subsection, including costs and attorney's fees. This action must be brought in the name of the
8 state and instituted in the circuit court of Kanawha County. The Attorney General may negotiate a
9 settlement with any alleged violator in the course of his or her enforcement of this article.

§46A-9-3. Civil remedies.

1 (a) A consumer may bring a civil action for damages against any credit reporting agency
2 that violates the provisions of this article. For each violation, the individual may recover:

3 (1) Against any person who negligently or recklessly violates this article, liquidated
4 damages of \$1,000 for each violation or actual damages, whichever is greater; or

5 (2) Against any person who intentionally violates this article, liquidated damages of \$5,000
6 for each violation or actual damages, whichever is greater.

7 (b) If a court finds that a violation of this article has occurred as the result of a civil action
8 filed pursuant to subsection (a) of this section, the court shall award reasonable attorney's fees to
9 the aggrieved party. A court may order such other relief, including an injunction, as the court may
10 consider appropriate.

11 (c) Any action under this article is barred unless the action is commenced within two years
12 after the aggrieved party either knew or, through reasonable diligence, should have known of the
13 violation.

NOTE: The purpose of this bill is to enact the West Virginia Consumer Privacy Act of 2024.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.