

# **New Amendment to West Virginia Consumer Credit and Protection Act Provides More Clarity for Creditors**

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## **THE DETAILS:**

On March 18, 2021, the West Virginia legislature passed Senate Bill 5 – an Amendment to the West Virginia Consumer Credit and Protection Act (WVCCPA). The Amendment provides more clarity about several aspects of litigation under the WVCCPA. Among other things, the Amendment:

- Provides criteria for a trial court to evaluate reasonable attorney's fees and expense awards to a prevailing consumer
- Provides a unified mechanism for pre-suit notices and offers to cure
- Establishes an explicit process for an offer to settle or offer of judgment
- Provides that a plaintiff is not entitled to the recovery of fees and expenses when the plaintiff rejects an offer of judgment and receives less than 75% of the offer of judgment at trial
- Provides that a defendant may recover attorneys' fees for frivolous claims or claims made in bad faith

The Amendment awaits Governor Justice's signature to become final.

## **THE IMPACT:**

Consumer attorneys have often used the fee-shifting provisions of the WVCCPA as a mechanism to over-litigate insignificant violations of the WVCCPA. The Amendment provides clarifications and procedures intended to discourage frivolous lawsuits. The Amendment further provides businesses with tools to limit their potential exposure in WVCCPA cases.

[Click here to view the final bill awaiting the governor's signature.](#)

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