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## LEGAL UPDATES FOR CONSUMER FINANCE PROFESSIONALS

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## Zombie (Debt Collector) Beware: West Virginia Expands Prohibited Actions

America's fascination with zombies infiltrated the West Virginia Legislature during the 2014 Regular Session, resulting in the introduction of a "zombie debt" bill, House Bill 4360. The bill, as introduced, was designed to thwart all debt collection efforts after a debt's statute of limitations has passed. After undergoing various legislative revisions, Committee Substitute House Bill 4360 was enrolled on March 8, 2014, and took effect 90 days thereafter, on June 6, 2014.

Although the enrolled version of House Bill 4360 conspicuously omits all references to zombies, and its effect is not so monstrous as its predecessor, it significantly amends [section 2-128](#) of the West Virginia Consumer Credit and Protection Act ("WVCCPA").

Section 2-128 of the WVCCPA prohibits the use of "unfair or unconscionable means to collect or attempt to collect any claim." A "claim" is "any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or service which is the subject of the transaction is primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment." *Id.* §1-122(b).

Prior to the Legislature's recent amendment, section 2-128 enumerated five types of action deemed prohibited as "unfair or unconscionable means to collect or attempt to collect any claim." Those five types of action, as summarized, include the following....

Click [here](#) to read the entire article.

## Disputing Debts Under the FDCPA

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In January of this year, the United States Court of Appeals for the Fourth Circuit ("Fourth Circuit") decided the case of [Clark v. Absolute Collection Service, Inc.](#) (741 F.3d 487, 4th Cir. 2014). The question of first impression before the Court was whether [Section 1692g\(a\)\(3\) of the Fair Debt Collection Practices Act](#) ("FDCPA") requires a consumer to dispute a debt in writing to gain the protections afforded by the FDCPA.

The Fourth Circuit held that, for purposes of § 1692g(a)(3), a dispute need not be in writing, a consumer can dispute a debt orally. Although businesses engaged in debt collection in the Fourth Circuit should take note of this decision and evaluate applicable procedures, the ultimate impact may be limited. The FDCPA creates certain protections for a consumer when a consumer disputes a debt being collected.

Click [here](#) to read the entire article.

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