

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 1157  
Economic Matters

(Delegate Hucker, *et al.*)

Finance

---

**Consumer Protection - Consumer Debt Collection - Disclosure Requirements**

---

This bill requires a collector to make the following disclosures in any written communication to a debtor relating to a specified alleged debt (1) the total amount of the charged-off debt; and (2) any interest and fees that have been added to the charged-off debt by the collector.

The bill applies prospectively and does not apply to the collection of charged-off debt by a collector before the bill's October 1, 2013 effective date.

---

**Fiscal Summary**

**State Effect:** The bill does not directly affect State governmental operations or finances.

**Local Effect:** The bill does not directly affect local governmental operations or finances.

**Small Business Effect:** Minimal.

---

**Analysis**

**Bill Summary:** The bill applies only to the collection of a credit card debt that was charged off by a holder of the debt and, subsequent to the charge off, was sold to a third-party collector. The bill does not apply to a collection of a debt by (1) a bank, trust company, savings bank, savings and loan association, or credit union or (2) an affiliate or subsidiary of an aforementioned entity that is not principally engaged in the purchase and collection of charged-off credit card debt.

**Current Law:** In collecting or attempting to collect an alleged debt, under the Maryland Consumer Debt Collection Act, a collector may not:

- use or threaten force or violence;
- threaten criminal prosecution, unless the transaction involved criminal action;
- disclose or threaten to disclose information which affects the debtor's reputation for credit worthiness with knowledge that the information is false;
- unlawfully contact a person's employer with respect to a delinquent indebtedness before obtaining a final judgment against the debtor;
- unlawfully disclose or threaten to disclose to a person other than the debtor, his or her spouse, or, if the debtor is a minor, his or her parent, information which affects the debtor's reputation with knowledge that the other person does not have a legitimate business need for the information;
- communicate with the debtor or a person related to him in a manner which can be reasonably expected to abuse or harass the debtor;
- use obscene or grossly abusive language in communicating with the debtor or a person related to him;
- claim, attempt, or threaten to enforce a right with knowledge that the right does not exist; or
- use a communication which simulates legal or judicial process or gives the appearance of being authorized, issued, or approved by a government, governmental agency, or lawyer when it is not.

A collector in violation of the Act is liable for any damages proximately caused by the violation, including damages for emotional distress or mental anguish suffered with or without accompanying physical injury.

**Background:** The State Collection Agency Licensing Board, under the Office of the Commissioner of Financial Regulation, licenses and regulates debt collection agencies. The board licenses more than 1,500 collection agencies doing business in Maryland and enforces the Act. The board also mediates disputes between consumers and debt collection agencies. The board has received between approximately 500 and 600 complaints regarding consumer debt collection agencies annually from 2007 through 2011. In 2012, the number of complaints climbed to more than 750. The commissioner attributes this increase to the poor economy and the publicity received from two large fines levied against debt collection agencies.

“Charged-off debt” is debt that has been deemed by the collector as debt that is unlikely to be paid. According to *bankrate.com*, the holders of debt may “charge off” debt if it is more than 180 days past due. The charged-off debt is then likely to be sold to a

third-party debt collector. Regardless of whether a debt is charged off by a business, a consumer who owes a debt that is not paid is subject to legal action for three years from the date the debt is incurred. The unpaid debt may also be reported on the consumer's credit report for seven years from the date the debt was incurred.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 432 (Senator Kelley, *et al.*) - Finance.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division); Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 18, 2013  
ncs/kdm Revised - House Third Reader - March 29, 2013

---

Analysis by: Michael F. Bender

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510