

HOUSE BILL 1032

I3, I2

4lr2649

By: **Delegates Gutierrez, Barkley, Bobo, Branch, Braveboy, Carr, Carter, Conaway, Cullison, Gilchrist, Glass, Glenn, Howard, Hucker, A. Kelly, Kramer, McHale, A. Miller, Mizeur, Myers, S. Robinson, Rosenberg, Stocksdale, Stukes, F. Turner, Valderrama, A. Washington, and Zucker**

Introduced and read first time: February 6, 2014

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Debt Collection – Statute of Limitations**
3 **(Maryland Zombie Debt Act)**

4 FOR the purpose of prohibiting a collector from initiating contact with a debtor or a
5 person related to the debtor under certain circumstances; requiring a collector
6 who is collecting or attempting to collect a debt for which the statute of
7 limitations has expired to inform a debtor of certain information in certain
8 communications; prohibiting a court from entering a judgment by default
9 against a certain debtor under certain circumstances; and generally relating to
10 the collection of consumer debts.

11 BY repealing and reenacting, without amendments,
12 Article – Commercial Law
13 Section 14–201 and 14–203
14 Annotated Code of Maryland
15 (2013 Replacement Volume)

16 BY repealing and reenacting, with amendments,
17 Article – Commercial Law
18 Section 14–202 and 14–204
19 Annotated Code of Maryland
20 (2013 Replacement Volume)

21 BY adding to
22 Article – Commercial Law
23 Section 14–204
24 Annotated Code of Maryland
25 (2013 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Commercial Law**

4 14–201.

5 (a) In this subtitle the following words have the meanings indicated.

6 (b) “Collector” means a person collecting or attempting to collect an alleged
7 debt arising out of a consumer transaction.

8 (c) “Consumer transaction” means any transaction involving a person
9 seeking or acquiring real or personal property, services, money, or credit for personal,
10 family, or household purposes.

11 (d) “Person” includes an individual, corporation, business trust, statutory
12 trust, estate, trust, partnership, association, two or more persons having a joint or
13 common interest, or any other legal or commercial entity.

14 14–202.

15 (A) In collecting or attempting to collect an alleged debt a collector may not:

16 (1) Use or threaten force or violence;

17 (2) Threaten criminal prosecution, unless the transaction involved the
18 violation of a criminal statute;

19 (3) Disclose or threaten to disclose information which affects the
20 debtor’s reputation for credit worthiness with knowledge that the information is false;

21 (4) Except as permitted by statute, contact a person’s employer with
22 respect to a delinquent indebtedness before obtaining final judgment against the
23 debtor;

24 (5) Except as permitted by statute, disclose or threaten to disclose to a
25 person other than the debtor or his spouse or, if the debtor is a minor, his parent,
26 information which affects the debtor’s reputation, whether or not for credit worthiness,
27 with knowledge that the other person does not have a legitimate business need for the
28 information;

29 (6) Communicate with the debtor or a person related to him with the
30 frequency, at the unusual hours, or in any other manner as reasonably can be
31 expected to abuse or harass the debtor;

1 (7) Use obscene or grossly abusive language in communicating with
2 the debtor or a person related to him;

3 (8) Claim, attempt, or threaten to enforce a right with knowledge that
4 the right does not exist; or

5 (9) Use a communication which simulates legal or judicial process or
6 gives the appearance of being authorized, issued, or approved by a government,
7 governmental agency, or lawyer when it is not.

8 **(B) A COLLECTOR MAY NOT INITIATE CONTACT WITH A DEBTOR, OR A
9 PERSON RELATED TO THE DEBTOR, UNLESS THE COLLECTOR POSSESSES
10 VERIFIABLE INFORMATION DOCUMENTING:**

11 **(1) OWNERSHIP OF THE DEBT, INCLUDING A COPY OF THE
12 SIGNED CONTRACT OF THE ORIGINAL DEBT, THE FINAL ACCOUNT STATEMENT
13 OF THE DEBT, AND WRITTEN DOCUMENTATION THAT THE COLLECTOR HAS THE
14 RIGHT TO COLLECT ON THE DEBT;**

15 **(2) THE AMOUNT OF THE DEBT; AND**

16 **(3) THE CONNECTION OF THE DEBTOR, OR THE PERSON RELATED
17 TO THE DEBTOR, TO THE DEBT.**

18 **(C) IN COLLECTING OR ATTEMPTING TO COLLECT A DEBT FOR WHICH
19 THE STATUTE OF LIMITATIONS HAS EXPIRED, A COLLECTOR SHALL INFORM A
20 DEBTOR, IN EACH COMMUNICATION, THAT:**

21 **(1) THE STATUTE OF LIMITATIONS FOR COLLECTION OF THE
22 DEBT HAS EXPIRED;**

23 **(2) THE DEBTOR MAY ASSERT THE EXPIRATION OF THE STATUTE
24 OF LIMITATIONS AS A DEFENSE IN A CIVIL ACTION INVOLVING COLLECTION OF
25 THE DEBT; AND**

26 **(3) ENTERING INTO AN AGREEMENT WITH THE COLLECTOR OR
27 MAKING A PAYMENT MAY:**

28 **(I) REVIVE THE DEBT; AND**

29 **(II) PREVENT THE DEBTOR FROM ASSERTING THE
30 EXPIRATION OF THE STATUTE OF LIMITATIONS AS A DEFENSE IN A CIVIL ACTION
31 INVOLVING COLLECTION OF THE DEBT.**

1 14-203.

2 A collector who violates any provision of this subtitle is liable for any damages
3 proximately caused by the violation, including damages for emotional distress or
4 mental anguish suffered with or without accompanying physical injury.

5 **14-204.**

6 **A COURT MAY NOT ENTER A JUDGMENT BY DEFAULT AGAINST A DEBTOR**
7 **IN A CIVIL ACTION INVOLVING COLLECTION OF A DEBT IF THE PERIOD IN WHICH**
8 **A CIVIL ACTION REGARDING THE UNDERLYING DEBT MUST COMMENCE HAS**
9 **EXPIRED.**

10 **[14-204.] 14-205.**

11 This subtitle may be cited as The Maryland Consumer Debt Collection Act.

12 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
13 October 1, 2014.