
By: Chairman, Economic Matters Committee (Departmental - Labor, Licensing and Regulation)

Introduced and read first time: January 29, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Collection Agencies - Licensing Board - Regulation, Licensing, Bonding, and**
3 **Enforcement**

4 FOR the purpose of providing for annual renewal of licenses for collection agencies;
5 clarifying the definition of "collection agency"; clarifying the venue provisions for
6 suit by the Collection Agency Licensing Board against violators of the law; granting
7 certain enforcement authority to the Collection Agency Licensing Board;
8 establishing a civil fine for certain violations; providing that a certain bond already
9 required covers violations of the Maryland Consumer Debt Collection Act and the
10 federal Fair Debt Collection Practices Act; providing for an appeal to the circuit
11 court by any person aggrieved by an action of the Board; and generally relating to
12 the enforcement powers of the Collection Agency Licensing Board.

13 BY repealing and reenacting, with amendments,
14 Article - Business Regulation
15 Section 7-101, 7-205, 7-302, 7-303, 7-304, and 7-309
16 Annotated Code of Maryland
17 (1992 Volume and 1995 Supplement)

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

20 **Article - Business Regulation**

21 7-101.

22 (a) In this title the following words have the meanings indicated.

23 (b) "Board" means the State Collection Agency Licensing Board.

24 (c) "Collection agency" means a person who:

25 (1) engages directly or indirectly in the business of collecting for, or
26 soliciting from another, a consumer claim;

27 (2) in collection of a consumer claim by its owner, uses a name or other
28 artifice that indicates that another party is attempting to collect the consumer claim; [or]

1 (3) gives, sells, attempts to give or sell to another, or uses, for collection of
2 a consumer claim, a series or system of forms or letters that indicates directly or indirectly
3 that a person other than the owner is asserting the consumer claim; OR

4 (4) EMPLOYS THE SERVICES OF AN INDIVIDUAL OR BUSINESS TO
5 SOLICIT OR SELL A COLLECTION SYSTEM TO BE USED FOR COLLECTION OF A
6 CONSUMER CLAIM.

7 (d) "Commissioner" means the Commissioner of Consumer Credit.

8 (e) "Consumer claim" means a claim that:

9 (1) is for money owed or said to be owed by a resident of the State; and

10 (2) arises from a transaction in which, for a family, household, or personal
11 purpose, the resident sought or got credit, money, personal property, real property, or
12 services.

13 (f) "License" means a license issued by the Board to do business as a collection
14 agency.

15 (g) "Licensed collection agency" means a person who is licensed by the Board to
16 do business as a collection agency.

17 7-205.

18 (a) To carry out this title, the Board may:

19 (1) receive a written complaint and hold a hearing on an alleged violation by
20 a collection agency of the Maryland Consumer Debt Collection Act, THIS TITLE, OR THE
21 FEDERAL FAIR DEBT COLLECTION PRACTICES ACT; and

22 [(2) mediate a dispute between a consumer and a collection agency and
23 suggest monetary compensation of the consumer in an amount agreeable to the consumer
24 and collection agency or other appropriate resolution or both.]

25 (2) ISSUE ORDERS:

26 (I) TO CEASE AND DESIST FROM THE VIOLATION AND ANY
27 FURTHER SIMILAR VIOLATIONS; OR

28 (II) REQUIRING THE VIOLATOR TO TAKE AFFIRMATIVE ACTION
29 TO CORRECT THE VIOLATION, INCLUDING THE RESTITUTION OF MONEY OR
30 PROPERTY TO ANY PERSON AGGRIEVED BY THE VIOLATION.

31 [(b) (1) If the Board concludes that conduct alleged to be a continuing violation
32 of this title will result in irreparable harm or that a person is doing business as a collection
33 agency without a license, the Board may sue for injunctive relief.

34 (2) The Board may sue under this subsection in the circuit court for the
35 county where:

36 (i) the alleged violation is occurring; or

37 (ii) the principal place of business of the alleged violator is located.]

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1 (B) IF A VIOLATOR FAILS TO COMPLY WITH A LAWFUL ORDER ISSUED BY
2 THE BOARD, THE BOARD MAY IMPOSE A PENALTY OF UP TO \$500 FOR EACH
3 VIOLATION FROM WHICH THE VIOLATOR FAILED TO CEASE AND DESIST OR FOR
4 WHICH THE VIOLATOR FAILED TO TAKE AFFIRMATIVE ACTION TO CORRECT, AS
5 ORDERED BY THE BOARD.

6 (C) IN DETERMINING THE AMOUNT OF ANY PENALTY TO BE IMPOSED UNDER
7 SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL CONSIDER:

8 (1) THE SERIOUSNESS OF THE VIOLATION;

9 (2) THE GOOD FAITH OF THE VIOLATOR;

10 (3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

11 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC AND
12 THE COLLECTION INDUSTRY; AND

13 (5) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE
14 FINANCIAL PENALTY.

15 7-302.

16 (a) An applicant for a license shall:

17 (1) submit to the Board an application on the form that the Board provides;
18 and

19 (2) pay to the Board an application fee of \$200.

20 (b) An application shall be made under oath.

21 (c) If an applicant wishes to do business as a collection agency at more than 1
22 place, the applicant shall submit a separate application and pay a separate application fee
23 for each place.

24 (d) An application fee is nonrefundable.

25 (E) BEFORE A LICENSE EXPIRES, THE LICENSEE PERIODICALLY MAY RENEW
26 THE LICENSE FOR ADDITIONAL 1-YEAR TERMS, IF THE LICENSEE:

27 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

28 (2) PAYS TO THE BOARD A RENEWAL FEE OF \$200;

29 (3) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON A FORM
30 REQUIRED BY THE BOARD; AND

31 (4) FILES WITH THE BOARD A BOND OR BOND CONTINUATION
32 CERTIFICATE AS REQUIRED UNDER § 7-304 OF THIS SUBTITLE.

33 7-303.

34 (a) Within 60 days after an applicant submits an application for a license and pays
35 the application fee, the Board shall approve or deny the application.

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1 (b) Subject to the hearing provisions of § 7-309 of this subtitle, the Board may
2 deny a license to an applicant if:

3 (1) the applicant fraudulently or deceptively obtains or attempts to obtain a
4 license for the applicant or for another person;

5 (2) the applicant fraudulently uses a license;

6 (3) the applicant:

7 (i) has had a license revoked; or

8 (ii) is responsible for an act or omission that resulted in revocation of
9 a license; [or]

10 (4) a person who, when the application is submitted, is an agent, director,
11 employee, member, officer, owner, partner, or spouse of the applicant:

12 (i) has had a license revoked; or

13 (ii) is responsible for an act or omission that resulted in revocation of
14 a license; OR

15 (5) OTHERWISE FAILS TO MEET THE REQUIREMENTS FOR LICENSURE.

16 7-304.

17 (a) [If an applicant qualifies for a license, the Board shall send the applicant a
18 notice that states that:

19 (1) the applicant has qualified for a license; and

20 (2) the Board will issue the license to the applicant after the applicant
21 submits to the Commissioner evidence of a surety bond, as provided in subsection (b) of
22 this section.

23 (b)] (1) An applicant for a license shall execute a surety bond for the benefit of
24 any member of the public who has a loss or other damage as a result of a violation of this
25 title, THE MARYLAND CONSUMER DEBT COLLECTION ACT, OR THE FEDERAL FAIR
26 DEBT COLLECTION PRACTICES ACT by the applicant or an agent or employee of the
27 applicant.

28 (2) The surety bond shall be:

29 (i) in a form that the Board approves;

30 (ii) with a surety that the Board approves; and

31 (iii) in the amount of \$5,000.

32 (3) The total liability of a surety on a bond under this section may not
33 exceed the amount of the bond, regardless of the number or amount of claims against the
34 bond.

35 (4) If the amount of claims against a bond exceeds the amount of the bond,
36 the surety:

5

1 (i) shall pay the amount of the bond to the Board for distribution to
2 claimants; and

3 (ii) then is relieved of liability under the bond.

4 [(c)] (B) The Board shall issue a license to each applicant who meets the
5 requirements of this subtitle.

6 7-309.

7 (a) (1) Except as otherwise provided in § 10-226 of the State Government
8 Article, before the Board takes any final action under § 7-308 of this subtitle, OR UNDER
9 § 7-205 OF THIS TITLE, it shall give the person against whom the action is contemplated
10 an opportunity for a hearing before the Board.

11 (2) A hearing shall be held at a time and place reasonably convenient to the
12 parties.

13 (b) The Board shall give notice and hold the hearing in accordance with Title 10,
14 Subtitle 2 of the State Government Article.

15 (c) The Board may administer oaths in connection with a proceeding under this
16 section.

17 (d) The Board may issue a subpoena for the attendance of a witness to testify at
18 a hearing under this section, but not for investigative purposes.

19 (e) If, after due notice, the person against whom the action is contemplated does
20 not appear, nevertheless the Board may hear and determine the matter.

21 (F) THE BOARD MAY ENFORCE A LAWFUL ORDER ISSUED UNDER THIS TITLE
22 BY FILING AN ACTION TO ENFORCE THE ORDER IN THE CIRCUIT COURT FOR THE
23 COUNTY:

24 (1) WHERE THE LICENSEE WHICH IS THE SUBJECT OF THE ORDER HAS
25 ITS PRINCIPAL PLACE OF BUSINESS; OR

26 (2) WHERE THE CONSUMER AGGRIEVED BY THE VIOLATION RESIDES.

27 (G) A PERSON AGGRIEVED BY A FINAL ORDER OF THE BOARD MAY APPEAL
28 ON THE RECORD ESTABLISHED DURING THE HEARING BEFORE THE AGENCY TO
29 THE CIRCUIT COURT FOR THE COUNTY WHERE THE PERSON AGGRIEVED BY THE
30 VIOLATION WHICH IS THE SUBJECT OF THE BOARD'S ORDER RESIDES.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 1996.