

HOUSE BILL 1324

C2

71r0116

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: February 28, 2007

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, March 2, 2007

Committee Report: Favorable

House action: Adopted

Read second time: March 25, 2007

CHAPTER _____

1 AN ACT concerning

2 **Collection Agencies – Licensing**

3 FOR the purpose of altering the definition of “collection agency” as it relates to the
4 licensing and regulation of collection agencies; requiring certain additional
5 persons to be licensed by the State Collection Agency Licensing Board before
6 they may collect consumer claims in this State; establishing certain
7 qualifications for a collection agency license; altering the conditions under
8 which the Board may reprimand certain licensees or suspend or revoke certain
9 licenses; authorizing certain persons to continue to collect certain consumer
10 claims without being licensed if the person applies for a license within a certain
11 time period; and generally relating to the licensing and regulation of collection
12 agencies.

13 BY repealing and reenacting, with amendments,
14 Article – Business Regulation
15 Section 7–101, 7–303, and 7–308
16 Annotated Code of Maryland
17 (2004 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Business Regulation**

4 7–101.

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

6 (b) “Board” means the State Collection Agency Licensing Board.

7 (c) “Collection agency” means a person who[:

8 (1)] engages directly or indirectly in the business of:

9 (1) (I) collecting for, or soliciting from another, a consumer claim;
10 **OR**

11 (II) **COLLECTING A CONSUMER CLAIM THE PERSON OWNS, IF**
12 **THE CLAIM WAS IN DEFAULT WHEN THE PERSON ACQUIRED IT;**

13 (2) [in collection of a consumer claim by its owner, uses] **COLLECTING**
14 **A CONSUMER CLAIM THE PERSON OWNS, USING** a name or other artifice that
15 indicates that another party is attempting to collect the consumer claim;

16 (3) [gives, sells, attempts] **GIVING, SELLING, ATTEMPTING** to give or
17 sell to another, or [uses] **USING**, for collection of a consumer claim, a series or system
18 of forms or letters that indicates directly or indirectly that a person other than the
19 owner is asserting the consumer claim; or

20 (4) [employs] **EMPLOYING** the services of an individual or business to
21 solicit or sell a collection system to be used for collection of a consumer claim.

22 (d) “Commissioner” means the Commissioner of Financial Regulation.

23 (e) “Consumer claim” means a claim that:

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

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

4 (f) “License” means a license issued by the Board to do business as a
5 collection agency.

6 (g) “Licensed collection agency” means a person who is licensed by the Board
7 to do business as a collection agency.

8 7–303.

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

11 [(b) Subject to the hearing provisions of § 7–309 of this subtitle, the Board
12 may deny a license to an applicant if:

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

15 (2) the applicant fraudulently uses a license;

16 (3) the applicant:

17 (i) has had a license revoked; or

18 (ii) is responsible for an act or omission that resulted in
19 revocation of a license;

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

22 (i) has had a license revoked; or

23 (ii) is responsible for an act or omission that resulted in
24 revocation of a license; or

25 (5) otherwise fails to meet the requirements for licensure.]

26 **(B) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL SATISFY THE**
27 **BOARD THAT THE APPLICANT IS OF GOOD MORAL CHARACTER AND HAS**

1 SUFFICIENT FINANCIAL RESPONSIBILITY, BUSINESS EXPERIENCE, AND
2 GENERAL FITNESS TO:

3 (1) ENGAGE IN BUSINESS AS A COLLECTION AGENCY;

4 (2) WARRANT THE BELIEF THAT THE BUSINESS WILL BE
5 CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND EFFICIENTLY; AND

6 (3) COMMAND THE CONFIDENCE OF THE PUBLIC.

7 (c) THE BOARD MAY DENY AN APPLICATION FOR A LICENSE TO ANY
8 PERSON WHO:

9 (1) HAS COMMITTED ANY ACT THAT WOULD BE A GROUND FOR
10 REPRIMAND, SUSPENSION, OR REVOCATION OF A LICENSE UNDER THIS
11 SUBTITLE; OR

12 (2) OTHERWISE FAILS TO MEET THE REQUIREMENTS FOR
13 LICENSURE.

14 (d) (1) THE DENIAL OF AN APPLICATION UNDER THIS SECTION IS
15 SUBJECT TO THE HEARING PROVISIONS OF § 7-309 OF THIS SUBTITLE.

16 (2) AN APPLICANT WHO SEEKS A HEARING ON A LICENSE
17 APPLICATION DENIAL SHALL FILE A WRITTEN REQUEST FOR A HEARING WITHIN
18 45 DAYS FOLLOWING RECEIPT OF THE NOTICE TO THE APPLICANT OF THE
19 APPLICANT'S RIGHT TO A HEARING.

20 7-308.

21 (a) Subject to the hearing provisions of § 7-309 of this subtitle, the Board
22 may reprimand a licensee or suspend or revoke a license if the licensee OR ANY
23 OWNER, DIRECTOR, OFFICER, MEMBER, PARTNER, OR AGENT OF THE LICENSEE:

24 [(1) fraudulently or deceptively obtains or attempts to obtain a license
25 for the licensee or for another person;

26 (2) fraudulently or deceptively uses a license;]

1 **(1) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION**
2 **FOR A LICENSE;**

3 **(2) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR**
4 **OF ANY STATE OF:**

5 **(I) A FELONY; OR**

6 **(II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE**
7 **FITNESS AND QUALIFICATION OF THE PERSON TO ENGAGE IN THE COLLECTION**
8 **AGENCY BUSINESS;**

9 **(3) IN CONNECTION WITH THE COLLECTION OF ANY CONSUMER**
10 **CLAIM:**

11 **(I) COMMITS ANY FRAUD; OR**

12 **(II) ENGAGES IN ANY ILLEGAL OR DISHONEST ACTIVITIES;**

13 **[(3)] (4) knowingly or negligently violates the Maryland Consumer**
14 **Debt Collection Act; or**

15 **[(4)] (5) fails to comply with a lawful order that the Board passes**
16 **under this title.**

17 **(b) If the Board finds that a ground for suspension or revocation of a license**
18 **applies to more than 1 place of business that the licensee operates, the Board may act**
19 **against:**

20 **(1) each license of the licensee; or**

21 **(2) only the licenses to which the ground applies.**

22 **(c) IN DETERMINING WHETHER TO REPRIMAND A LICENSEE OR TO**
23 **SUSPEND OR REVOKE A LICENSE FOR A REASON DESCRIBED IN SUBSECTION**
24 **(A)(2) OF THIS SECTION, THE BOARD SHALL CONSIDER:**

25 **(1) THE NATURE OF THE CRIME;**

1 **(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES**
 2 **AUTHORIZED BY THE LICENSE;**

3 **(3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE**
 4 **CONVICTION TO THE FITNESS AND QUALIFICATION OF THE LICENSEE TO**
 5 **ENGAGE IN THE COLLECTION AGENCY BUSINESS;**

6 **(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND**

7 **(5) THE BEHAVIOR AND ACTIVITIES OF THE LICENSEE SINCE THE**
 8 **CONVICTION.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That, in the absence of an
 10 order by the State Collection Agency Licensing Board to the contrary, a person that
 11 owned consumer claims and was not required to have a collection agency license
 12 immediately prior to the effective date of this Act may continue to collect those
 13 consumer claims without being licensed, as required by Section 1 of this Act, until the
 14 State Collection Agency Licensing Board approves or disapproves the person's
 15 application for a license if the person applies for a license no later than 30 days after
 16 the effective date of this Act.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 18 October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.