

## **CHAPTER 472**

### **(House Bill 1324)**

AN ACT concerning

#### **Collection Agencies – Licensing**

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

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

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

#### **Article – Business Regulation**

7–101.

- (a) In this title the following words have the meanings indicated.
- (b) “Board” means the State Collection Agency Licensing Board.
- (c) “Collection agency” means a person who:
  - (1)] engages directly or indirectly in the business of:

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

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

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

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

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

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

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

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

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

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

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

7-303.

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

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

- (1) the applicant fraudulently or deceptively obtains or attempts to obtain a license for the applicant or for another person;
- (2) the applicant fraudulently uses a license;
- (3) the applicant:
  - (i) has had a license revoked; or
  - (ii) is responsible for an act or omission that resulted in revocation of a license;
- (4) a person who, when the application is submitted, is an agent, director, employee, member, officer, owner, partner, or spouse of the applicant:
  - (i) has had a license revoked; or
  - (ii) is responsible for an act or omission that resulted in revocation of a license; or
- (5) otherwise fails to meet the requirements for licensure.]

**(B) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL SATISFY THE BOARD THAT THE APPLICANT IS OF GOOD MORAL CHARACTER AND HAS SUFFICIENT FINANCIAL RESPONSIBILITY, BUSINESS EXPERIENCE, AND GENERAL FITNESS TO:**

- (1) ENGAGE IN BUSINESS AS A COLLECTION AGENCY;**
- (2) WARRANT THE BELIEF THAT THE BUSINESS WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND EFFICIENTLY; AND**
- (3) COMMAND THE CONFIDENCE OF THE PUBLIC.**

**(C) THE BOARD MAY DENY AN APPLICATION FOR A LICENSE TO ANY PERSON WHO:**

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

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

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

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

7-308.

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

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

(2) fraudulently or deceptively uses a license;]

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

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

**(I) A FELONY; OR**

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

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

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

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

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

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

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

- (1) each license of the licensee; or
- (2) only the licenses to which the ground applies.

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

- (1) THE NATURE OF THE CRIME;**
- (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED BY THE LICENSE;**
- (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION TO THE FITNESS AND QUALIFICATION OF THE LICENSEE TO ENGAGE IN THE COLLECTION AGENCY BUSINESS;**
- (4) THE LENGTH OF TIME SINCE THE CONVICTION; AND**
- (5) THE BEHAVIOR AND ACTIVITIES OF THE LICENSEE SINCE THE CONVICTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That, in the absence of an order by the State Collection Agency Licensing Board to the contrary, a person that owned consumer claims and was not required to have a collection agency license immediately prior to the effective date of this Act may continue to collect those consumer claims without being licensed, as required by Section 1 of this Act, until the State Collection Agency Licensing Board approves or disapproves the person's

application for a license if the person applies for a license no later than 30 days after the effective date of this Act.

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

**Approved by the Governor, May 8, 2007.**