

HOUSE BILL 748

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

Introduced and read first time: February 4, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Consumer Debt Collection**

3 FOR the purpose of prohibiting certain actions by debt collectors collecting or
4 attempting to collect an alleged debt arising out of a consumer transaction;
5 authorizing a debt collector to make a certain assumption for a certain purpose;
6 requiring debt collectors to apply certain payments in a certain manner; and
7 generally relating to consumer debt collection.

8 BY repealing and reenacting, without amendments,
9 Article – Commercial Law
10 Section 14–201 and 14–203
11 Annotated Code of Maryland
12 (2005 Replacement Volume and 2007 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Commercial Law
15 Section 14–202
16 Annotated Code of Maryland
17 (2005 Replacement Volume and 2007 Supplement)

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

20 **Article – Commercial Law**

21 14–201.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) "Collector" means a person collecting or attempting to collect an alleged
2 debt arising out of a consumer transaction.

3 (c) "Consumer transaction" means any transaction involving a person
4 seeking or acquiring real or personal property, services, money, or credit for personal,
5 family, or household purposes.

6 (d) "Person" includes an individual, corporation, business trust, estate, trust,
7 partnership, association, two or more persons having a joint or common interest, or
8 any other legal or commercial entity.

9 14-202.

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

11 (1) Use or threaten force or violence;

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

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

16 (4) **KNOWINGLY FAIL TO DISCLOSE THAT A DEBT IS DISPUTED;**

17 [(4)] (5) Except as permitted by statute, contact a person's employer
18 with respect to a delinquent indebtedness before obtaining final judgment against the
19 debtor;

20 [(5)] (6) Except as permitted by statute, disclose or threaten to
21 disclose to a person other than the debtor or his spouse or, if the debtor is a minor, his
22 parent, information which affects the debtor's reputation, whether or not for credit
23 worthiness, with knowledge that the other person does not have a legitimate business
24 need for the information;

25 [(6)] (7) Communicate with the debtor or a person related to him
26 with the frequency, at the unusual hours, or in any other manner as reasonably can be
27 expected to abuse or harass the debtor;

28 [(7)] (8) Use obscene or grossly abusive language in communicating
29 with the debtor or a person related to him;

30 [(8)] (9) (I) Claim, attempt, or threaten to enforce a right with
31 knowledge that the right does not exist; or

32 (II) **THREATEN TO TAKE ANY ACTION THAT THE**
33 **COLLECTOR DOES NOT INTEND TO TAKE;**

1 [(9)] (10) Use a communication which simulates legal or judicial
2 process or gives the appearance of being authorized, issued, or approved by a
3 government, governmental agency, or lawyer when it is not;

4 (11) COMMUNICATE WITH A DEBTOR AFTER THE DEBTOR HAS
5 NOTIFIED THE COLLECTOR IN WRITING THAT THE DEBTOR REFUSES TO PAY THE
6 DEBT OR THAT THE DEBTOR WISHES THE COLLECTOR TO CEASE FURTHER
7 COMMUNICATION WITH THE DEBTOR, EXCEPT TO:

8 (I) ADVISE THE DEBTOR THAT THE COLLECTOR'S FURTHER
9 EFFORTS ARE BEING TERMINATED;

10 (II) NOTIFY THE DEBTOR THAT THE COLLECTOR MAY
11 INVOKE SPECIFIED REMEDIES THAT ARE ORDINARILY INVOKED BY THE
12 COLLECTOR; OR

13 (III) NOTIFY THE DEBTOR THAT THE COLLECTOR INTENDS
14 TO INVOKE A SPECIFIED REMEDY;

15 (12) COLLECT OR ATTEMPT TO COLLECT ANY INTEREST, FEE,
16 CHARGE, EXPENSE, OR OTHER AMOUNT THAT IS NOT EXPRESSLY AUTHORIZED
17 BY THE AGREEMENT CREATING THE DEBT OR PERMITTED BY LAW; OR

18 (13) (I) ACCEPT A CHECK OR OTHER PAYMENT INSTRUMENT
19 POSTDATED BY MORE THAN 5 DAYS UNLESS THE COLLECTOR NOTIFIES THE
20 DEBTOR IN WRITING OF THE COLLECTOR'S INTENT TO DEPOSIT THE CHECK OR
21 OTHER INSTRUMENT NOT MORE THAN 10 AND NOT LESS THAN 3 BUSINESS DAYS
22 BEFORE THE DEPOSIT; OR

23 (II) DEPOSIT OR THREATEN TO DEPOSIT ANY POSTDATED
24 CHECK OR OTHER PAYMENT INSTRUMENT BEFORE ITS DATE.

25 (B) FOR PURPOSES OF SUBSECTION (A)(7) OF THIS SECTION, IN THE
26 ABSENCE OF KNOWLEDGE OF CIRCUMSTANCES TO THE CONTRARY, A
27 COLLECTOR MAY ASSUME THAT A COMMUNICATION WITH A DEBTOR AFTER 8:00
28 A.M. AND BEFORE 9:00 P.M. LOCAL TIME AT THE DEBTOR'S LOCATION IS NOT AT
29 AN UNUSUAL HOUR.

30 (C) IF A COLLECTOR IS COLLECTING OR ATTEMPTING TO COLLECT
31 MULTIPLE ALLEGED DEBTS FROM THE SAME DEBTOR, THE COLLECTOR:

32 (1) MAY NOT APPLY A PAYMENT TO A DEBT DISPUTED BY THE
33 DEBTOR; AND

1 (2) **SHALL APPLY A PAYMENT TO THE DEBT INDICATED BY THE**
2 **DEBTOR.**

3 14-203.

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2008.