

# 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

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 2008

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Commercial Law – Consumer Debt Collection**

3 FOR the purpose of altering the definition of “collector” to exclude certain property  
4 managers from certain provisions of law relating to debt collection; prohibiting  
5 certain actions by debt collectors collecting or attempting to collect an alleged  
6 debt arising out of a consumer transaction; authorizing a debt collector to make  
7 a certain assumption for a certain purpose; requiring debt collectors to apply  
8 certain payments in a certain manner; defining a certain term; and generally  
9 relating to consumer debt collection.

10 BY repealing and reenacting, ~~without~~ with amendments,  
11 Article – Commercial Law  
12 Section 14–201 and ~~14–203~~ 14–202  
13 Annotated Code of Maryland  
14 (2005 Replacement Volume and 2007 Supplement)

15 BY repealing and reenacting, ~~with~~ without amendments,  
16 Article – Commercial Law  
17 Section ~~14–202~~ 14–203  
18 Annotated Code of Maryland  
19 (2005 Replacement Volume and 2007 Supplement)

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

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**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 Article – Commercial Law

2 14–201.

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

4 (b) **(1)** “Collector” means a person collecting or attempting to collect an  
5 alleged debt arising out of a consumer transaction.6 **(2) “COLLECTOR” DOES NOT INCLUDE A PROPERTY MANAGER,**  
7 **OR AN EMPLOYEE OF A PROPERTY MANAGER, COLLECTING OR ATTEMPTING TO**  
8 **COLLECT RENT FROM A TENANT OF A PROPERTY THAT IS MANAGED BY THE**  
9 **PROPERTY MANAGER.**10 (c) “Consumer transaction” means any transaction involving a person  
11 seeking or acquiring real or personal property, services, money, or credit for personal,  
12 family, or household purposes.13 (d) “Person” includes an individual, corporation, business trust, estate, trust,  
14 partnership, association, two or more persons having a joint or common interest, or  
15 any other legal or commercial entity.16 **(E) “PROPERTY MANAGER” MEANS A PERSON WHO LEASES, MAINTAINS,**  
17 **OPERATES, OR MANAGES RENTAL PROPERTY.**

18 14–202.

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

20 (1) Use or threaten force or violence;

21 (2) Threaten criminal prosecution, unless the transaction involved the  
22 violation of a criminal statute;23 (3) Disclose or threaten to disclose information which affects the  
24 debtor’s reputation for credit worthiness with knowledge that the information is false;25 **(4) KNOWINGLY FAIL TO DISCLOSE THAT A DISPUTED DEBT IS**  
26 **DISPUTED;**27 **[(4)] (5)** Except as permitted by statute, contact a person’s employer  
28 with respect to a delinquent indebtedness before obtaining final judgment against the  
29 debtor;30 **[(5)] (6)** Except as permitted by statute, disclose or threaten to  
31 disclose to a person other than the debtor or his spouse or, if the debtor is a minor, his  
32 parent, information which affects the debtor’s reputation, whether or not for credit

1 worthiness, with knowledge that the other person does not have a legitimate business  
2 need for the information;

3 [(6)] (7) Communicate with the debtor or a person related to him  
4 with the frequency, at the unusual hours, or in any other manner as reasonably can be  
5 expected to abuse or harass the debtor;

6 [(7)] (8) Use obscene or grossly abusive language in communicating  
7 with the debtor or a person related to him;

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

10 (II) **THREATEN TO TAKE ANY ACTION THAT THE**  
11 **COLLECTOR CANNOT LEGALLY TAKE OR DOES NOT INTEND TO TAKE;**

12 [(9)] (10) Use a communication which simulates legal or judicial  
13 process or gives the appearance of being authorized, issued, or approved by a  
14 government, governmental agency, or lawyer when it is not;

15 (11) **COMMUNICATE WITH A DEBTOR AFTER THE DEBTOR HAS**  
16 **NOTIFIED THE COLLECTOR IN WRITING THAT THE DEBTOR REFUSES TO PAY THE**  
17 **DEBT OR THAT THE DEBTOR WISHES THE COLLECTOR TO CEASE FURTHER**  
18 **COMMUNICATION WITH THE DEBTOR, EXCEPT TO:**

19 (I) **ADVISE THE DEBTOR THAT THE COLLECTOR'S FURTHER**  
20 **EFFORTS ARE BEING TERMINATED;**

21 (II) **NOTIFY THE DEBTOR THAT THE COLLECTOR MAY**  
22 **INVOKE SPECIFIED REMEDIES THAT ARE ORDINARILY INVOKED BY THE**  
23 **COLLECTOR; OR**

24 (III) **NOTIFY THE DEBTOR THAT THE COLLECTOR INTENDS**  
25 **TO INVOKE A SPECIFIED REMEDY;**

26 (12) **COLLECT OR ATTEMPT TO COLLECT ANY INTEREST, FEE,**  
27 **CHARGE, EXPENSE, OR OTHER AMOUNT THAT THE COLLECTOR KNOWS OR**  
28 **SHOULD KNOW IS NOT EXPRESSLY AUTHORIZED BY THE AGREEMENT CREATING**  
29 **THE DEBT OR PERMITTED BY LAW; OR**

30 (13) (I) **ACCEPT A CHECK OR OTHER PAYMENT INSTRUMENT**  
31 **POSTDATED BY MORE THAN 5 DAYS UNLESS THE COLLECTOR NOTIFIES THE**  
32 **DEBTOR IN WRITING OF THE COLLECTOR'S INTENT TO DEPOSIT THE CHECK OR**  
33 **OTHER INSTRUMENT NOT MORE THAN 10 AND NOT LESS THAN 3 BUSINESS DAYS**  
34 **BEFORE THE DEPOSIT; OR**

1                   **(II) DEPOSIT OR THREATEN TO DEPOSIT ANY POSTDATED**  
2 **CHECK OR OTHER PAYMENT INSTRUMENT BEFORE ITS DATE.**

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

8           **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
9 **SUBSECTION, SUBSECTION (A)(13) OF THIS SECTION DOES NOT APPLY TO A**  
10 **BANK THAT IS SUBJECT TO § 4-401(C) OF THIS ARTICLE.**

11                   **(2) A BANK MAY NOT THREATEN TO DEPOSIT A POSTDATED**  
12 **CHECK OR OTHER PAYMENT INSTRUMENT BEFORE ITS DATE.**

13           ~~(C)~~ **(D) IF A COLLECTOR IS COLLECTING OR ATTEMPTING TO**  
14 **COLLECT MULTIPLE ALLEGED DEBTS FROM THE SAME DEBTOR, THE**  
15 **COLLECTOR:**

16                   **(1) MAY NOT APPLY A PAYMENT TO A DEBT DISPUTED BY THE**  
17 **DEBTOR; AND**

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

20 14-203.

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

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