

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 748

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

Economic Matters

Finance

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**Commercial Law - Consumer Debt Collection**

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This departmental bill prohibits specified debt collectors from engaging in specific actions while collecting or attempting to collect an alleged debt that arose from a consumer transaction.

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**Fiscal Summary**

**State Effect:** The bill would not directly affect State finances or operations.

**Local Effect:** None.

**Small Business Effect:** The Department of Labor, Licensing, and Regulation has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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**Analysis**

**Bill Summary:** In collecting or attempting to collect an alleged debt, a collector may not

- knowingly fail to disclose that a disputed debt is disputed;
- threaten to take any action that the collector cannot legally take or does not intend to take;
- collect or attempt to collect any interest, fee, charge, expense, or other amount that the collector knows or should know is not expressly authorized by the agreement creating the debt or permitted by law; or
- deposit or threaten to deposit any postdated check or other payment instrument before its date.

The bill defines a “collector” as a person collecting or attempting to collect an alleged debt arising out of a consumer transaction. Collector does not include a property manager or an employee of a property manager collecting or attempting to collect rent from a tenant of a managed property.

In addition, the collector may not communicate with a debtor after the debtor has notified the collector in writing that the debtor refuses to pay the debt or that the debtor wishes the collector to cease further communication with the debtor, except to • advise the debtor that the collector’s further efforts are being terminated; • notify the debtor that the collector may invoke specified remedies that are ordinarily invoked by the collector; or • notify the debtor that the collector intends to invoke a specific remedy. The bill permits collectors to assume, in the absence of knowledge of circumstances to the contrary, that a communication with a debtor after 8:00 a.m. and before 9:00 p.m. local time at the debtor’s location is not a prohibited unusual hour.

Under the bill, if a collector is collecting or attempting to collect multiple alleged debts from the same debtor, the collector • may not apply a payment to a debt disputed by the debtor; and • must apply a payment to the debt indicated by the debtor. The bill’s provisions relating to postdated instruments do not apply to banks, except that a bank may not threaten to deposit a postdated check or other payment instrument before its date.

**Current Law:** Under the Maryland Consumer Debt Collection Act (MCDCA), a debt collector collecting or attempting to collect an alleged debt may not • use or threaten force or violence; • threaten criminal prosecution, unless the transaction involved a criminal violation; • disclose or threaten to disclose information about the debtor’s reputation for creditworthiness under specified circumstances; • except as otherwise permitted, contact a person’s employer about a debt before obtaining a final judgment; • except as otherwise permitted, disclose or threaten to disclose information that affects the debtor’s reputation under specified circumstances; • communicate with the debtor or a person related to the debtor with the frequency, at the unusual hours, or in any other manner as reasonably can be expected to abuse or harass the debtor; • use obscene or grossly abusive language; • claim, attempt, or threaten to enforce a right with knowledge that the right does not exist; or • use a communication that simulates legal or judicial process or gives the appearance of being authorized, issued, or approved by a government, government agency, or lawyer when it is not.

A debt collector who violates the Act is liable for any damages proximately caused by the violation, including damages for emotional distress or mental anguish suffered with or without accompanying physical injury.

**Background:** For decades, residents of Maryland have relied on MCDCA for protection against some creditors and third-party collection organizations that resort to abusive or harassing debt collection practices. The practices prohibited by the bill have been identified by the Maryland Collection Agency Licensing Board as abusive, in need of reform, and already prohibited by federal law. The bill would allow the board to enforce prohibition of these practices by adding them to the existing list of practices banned by the Maryland Consumer Debt Collection Act.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 15, 2008  
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