

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 423
Finance

(Senator Kelley)

Consumer Protection - Debt Collection - Collecting from a Cosigner

This bill prohibits a debt collector from attempting to collect a debt from a cosigner of the obligation before attempting to collect the debt from the primary borrower. A debt collector in violation of the bill's provisions is liable for any damages proximately caused by the violation, including damages for emotional distress or mental anguish.

Fiscal Summary

State Effect: Assuming the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources.

Local Effect: The bill does not directly affect local finances or operations.

Small Business Effect: None.

Analysis

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.

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 State Collection Agency Licensing Board within the Department of Labor, Licensing, and Regulation regulates debt collection agencies; issues, suspends, and revokes licenses; reprimands licensees; and receives and investigates written complaints from consumers. The board may hold a hearing on alleged violations of MCDCA by a debt collection agency. The board also mediates disputes between consumers and debt collection agencies. The board comprises five members and is chaired by the Commissioner of Financial Regulation. Members are appointed to four-year terms and serve without compensation. The board is subject to periodic evaluation and reauthorization under the Maryland Program Evaluation Act. Authorization for the board continues until July 1, 2012.

Additional Information

Prior Introductions: None.

Cross File: HB 540 (Delegate Jones, *et al.*) - Economic Matters.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Department of Labor, Licensing, and Regulation; Department of Legislative Services

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