

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 432
Finance

(Senator Kelley, *et al.*)

Consumer Protection - Consumer Debt Collection - Disclosure Requirements

This bill requires a collector to make the following written disclosures in any communication to a debtor relating to an alleged debt: (1) the total amount of the debt; (2) the portion of the debt that is principal, as defined by the bill; (3) the portion of the debt that is interest; and (4) any fees that have been added to the debt total.

Fiscal Summary

State Effect: The bill does not directly affect State governmental operations or finances.

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

Small Business Effect: Minimal.

Analysis

Bill Summary: “Principal” means the unpaid balance alleged to be owed to the original creditor of (1) borrowed funds; (2) credit; (3) the sales price of purchased goods or services; or (4) the capital sum of any other debt or obligation arising from a consumer transaction. The term does not include interest, fees, or changes added to the debt or obligation by the original creditor or any subsequent assignees of the consumer debt.

Current Law: In collecting or attempting to collect an alleged debt, under the Maryland Consumer Debt Collection Act, a collector may not:

- use or threaten force or violence;
- threaten criminal prosecution, unless the transaction involved criminal action;

- disclose or threaten to disclose information which affects the debtor's reputation for credit worthiness with knowledge that the information is false;
- unlawfully contact a person's employer with respect to a delinquent indebtedness before obtaining a final judgment against the debtor;
- unlawfully disclose or threaten to disclose to a person other than the debtor, his or her spouse, or, if the debtor is a minor, his or her parent, information which affects the debtor's reputation with knowledge that the other person does not have a legitimate business need for the information;
- communicate with the debtor or a person related to him in a manner which can be reasonably expected to abuse or harass the debtor;
- use obscene or grossly abusive language in communicating with the debtor or a person related to him;
- claim, attempt, or threaten to enforce a right with knowledge that the right does not exist; or
- use a communication which simulates legal or judicial process or gives the appearance of being authorized, issued, or approved by a government, governmental agency, or lawyer when it is not.

A collector in violation of 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: The State Collection Agency Licensing Board, under the Office of the Commissioner of Financial Regulation, licenses and regulates debt collection agencies. The board licenses more than 1,500 collection agencies doing business in Maryland and enforces the Act. The board also mediates disputes between consumers and debt collection agencies. The board has received between approximately 500 and 600 complaints regarding consumer debt collection agencies annually from 2007 through 2011. In 2012, the number of complaints climbed to more than 750. The commissioner attributes this increase to the poor economy and the publicity received from two large fines levied against debt collection agencies.

Additional Information

Prior Introductions: None.

Cross File: HB 1157 (Delegate Hucker, *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

Fiscal Note History: First Reader - February 18, 2013
ncs/kdm

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