

SENATE BILL 771

D3, I3

6lr3462
CF 6lr3463

By: **The President (By Request – Office of the Attorney General)**

Introduced and read first time: February 5, 2016

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Courts and Judicial Proceedings – Consumer Debt Collection Actions –**
3 **Restrictions**

4 FOR the purpose of prohibiting a creditor or a debt collector from initiating or filing a
5 certain consumer debt collection action under certain circumstances; specifying that
6 a certain debt buyer or a certain collector has a certain burden in a certain consumer
7 debt collection action; prohibiting a debt buyer or a certain collector from initiating
8 a certain consumer debt collection action unless the debt buyer or the collector
9 possesses certain documents; prohibiting a court from entering a judgment in favor
10 of a debt buyer or a certain collector under certain circumstances; defining certain
11 terms; and generally relating to consumer debt collection and consumer debt
12 collection actions.

13 BY adding to

14 Article – Courts and Judicial Proceedings

15 Section 5–1201 through 5–1203 to be under the new subtitle “Subtitle 12. Consumer
16 Debt Collection Actions”

17 Annotated Code of Maryland

18 (2013 Replacement Volume and 2015 Supplement)

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

21 **Article – Courts and Judicial Proceedings**

22 **SUBTITLE 12. CONSUMER DEBT COLLECTION ACTIONS.**

23 **5–1201.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (B) "COLLECTOR" MEANS A PERSON COLLECTING OR ATTEMPTING TO
4 COLLECT AN ALLEGED DEBT ARISING OUT OF A CONSUMER TRANSACTION.

5 (C) "CONSUMER DEBT" MEANS A SECURED OR AN UNSECURED DEBT THAT:

6 (1) IS FOR MONEY OWED OR ALLEGED TO BE OWED; AND

7 (2) ARISES FROM A CONSUMER TRANSACTION.

8 (D) "CONSUMER DEBT COLLECTION ACTION" MEANS ANY JUDICIAL ACTION
9 OR ARBITRATION PROCEEDING IN WHICH A CLAIM IS ASSERTED TO COLLECT A
10 CONSUMER DEBT.

11 (E) "CONSUMER TRANSACTION" MEANS ANY TRANSACTION INVOLVING A
12 PERSON SEEKING OR ACQUIRING REAL OR PERSONAL PROPERTY, SERVICES,
13 MONEY, OR CREDIT FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES.

14 (F) "CREDITOR" MEANS A PERSON TO WHOM A CONSUMER DEBT IS OWED
15 OR ALLEGED TO BE OWED.

16 (G) (1) "DEBT BUYER" MEANS A PERSON THAT PURCHASES OR
17 OTHERWISE ACQUIRES CONSUMER DEBT FROM AN ORIGINAL CREDITOR OR FROM A
18 SUBSEQUENT OWNER OF THE DEBT.

19 (2) "DEBT BUYER" DOES NOT INCLUDE A CHECK SERVICES COMPANY
20 THAT ACQUIRES THE RIGHT TO COLLECT ON A PAPER OR AN ELECTRONIC CHECK
21 INSTRUMENT, INCLUDING AN AUTOMATED CLEARING HOUSE ITEM THAT HAS BEEN
22 RETURNED UNPAID TO A MERCHANT.

23 (H) "DEBTOR" MEANS AN INDIVIDUAL WHO OWES OR IS ALLEGED TO OWE A
24 CONSUMER DEBT.

25 (I) (1) "PRINCIPAL" MEANS THE UNPAID BALANCE OF A DEBT OR AN
26 OBLIGATION ARISING FROM A CONSUMER TRANSACTION THAT IS OWED OR ALLEGED
27 TO BE OWED TO THE ORIGINAL CREDITOR.

28 (2) "PRINCIPAL" DOES NOT INCLUDE INTEREST, FEES, OR CHARGES
29 ADDED TO THE DEBT OR OBLIGATION BY THE ORIGINAL CREDITOR OR ANY
30 SUBSEQUENT OWNERS OF A CONSUMER DEBT.

1 **5-1202.**

2 (A) A CREDITOR OR A COLLECTOR MAY NOT INITIATE A CONSUMER DEBT
3 COLLECTION ACTION AFTER THE EXPIRATION OF THE STATUTE OF LIMITATIONS
4 APPLICABLE TO THE CONSUMER DEBT COLLECTION ACTION.

5 (B) IN ANY CONSUMER DEBT COLLECTION ACTION MAINTAINED BY A DEBT
6 BUYER OR A COLLECTOR ACTING ON BEHALF OF A DEBT BUYER, THE DEBT BUYER
7 OR COLLECTOR SHALL HAVE THE BURDEN OF SHOWING THAT THE STATUTE OF
8 LIMITATIONS HAS NOT EXPIRED.

9 **5-1203.**

10 (A) A DEBT BUYER OR A COLLECTOR ACTING ON BEHALF OF A DEBT BUYER
11 MAY NOT INITIATE A CONSUMER DEBT COLLECTION ACTION UNLESS THE DEBT
12 BUYER OR COLLECTOR POSSESSES ALL OF THE DOCUMENTS LISTED IN SUBSECTION
13 (B)(3)(I) THROUGH (V) OF THIS SECTION.

14 (B) (1) THIS SUBSECTION APPLIES TO A CONSUMER DEBT COLLECTION
15 ACTION, INCLUDING A SMALL CLAIM ACTION UNDER § 4-405 OF THIS ARTICLE, THAT
16 IS MAINTAINED BY A DEBT BUYER OR A COLLECTOR ACTING ON BEHALF OF A DEBT
17 BUYER.

18 (2) IN ADDITION TO ANY OTHER REQUIREMENT OF LAW OR RULE, A
19 COURT MAY NOT ENTER A JUDGMENT IN FAVOR OF A DEBT BUYER OR A COLLECTOR
20 UNLESS THE DEBT BUYER OR COLLECTOR:

21 (I) INTRODUCES INTO EVIDENCE THE DOCUMENTS SPECIFIED
22 IN PARAGRAPH (3) OF THIS SUBSECTION; AND

23 (II) MAKES AVAILABLE FOR EXAMINATION AT A TRIAL AN
24 INDIVIDUAL WITH KNOWLEDGE OF THE FACTS PERTINENT TO THE CLAIMS
25 ASSERTED.

26 (3) A DEBT BUYER OR A COLLECTOR ON BEHALF OF A DEBT BUYER
27 SHALL INTRODUCE THE FOLLOWING EVIDENCE IN A CONSUMER DEBT COLLECTION
28 ACTION:

29 (I) THE AGREEMENT BETWEEN THE DEBTOR AND THE
30 ORIGINAL CREDITOR OR OTHER DOCUMENTS THAT:

31 1. ESTABLISH THE DEBT;

1
2 AND

2. INCLUDE ALL TERMS AND CONDITIONS OF THE DEBT;

3 **3. REFLECT THE DEBTOR’S ASSENT;**

4 **(II) 1. THE CHARGE-OFF ACCOUNT STATEMENT FROM THE**
5 **ORIGINAL CREDITOR; OR**

6 **2. IF THE CHARGE-OFF ACCOUNT STATEMENT NEVER**
7 **EXISTED, THE LAST BILL FROM THE ORIGINAL CREDITOR TO THE DEBTOR;**

8 **(III) DOCUMENTS SHOWING ALL CHARGES AND CREDITS TO THE**
9 **ACCOUNT AFTER CHARGE-OFF BY THE ORIGINAL CREDITOR;**

10 **(IV) DOCUMENTS ESTABLISHING THE DEBT BUYER’S**
11 **OWNERSHIP OF THE ACCOUNT; AND**

12 **(V) ALL OTHER DOCUMENTS THAT WOULD BE NECESSARY TO**
13 **SUPPORT A JUDGMENT ON AFFIDAVIT.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2016.