

HOUSE BILL 783

I3, I2

6lr2669

By: **Delegates Gutierrez, Carr, Cullison, Luedtke, Moon, Morales, Pena–Melnyk, and Smith**

Introduced and read first time: February 8, 2016

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Collection and Sale of Consumer Debt – Restrictions**

3 FOR the purpose of prohibiting a debt collector from attempting to collect a certain debt
4 unless the debt collector possesses certain verifiable information; requiring a certain
5 affidavit to meet certain requirements; prohibiting certain documents in a civil
6 action from being created for a certain purpose; prohibiting an original creditor from
7 selling a certain debt; requiring an original creditor to provide certain documentation
8 to a debt buyer; requiring an original creditor that has sold a debt to provide a certain
9 notification to a certain debtor; prohibiting a debt buyer from purchasing a debt from
10 another debt buyer; prohibiting a debt buyer from reselling a debt under certain
11 circumstances; defining certain terms; and generally relating to the collection and
12 sale of consumer debt.

13 BY repealing and reenacting, with amendments,
14 Article – Commercial Law
15 Section 14–201 and 14–202
16 Annotated Code of Maryland
17 (2013 Replacement Volume and 2015 Supplement)

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

20 **Article – Commercial Law**

21 14–201.

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

23 (b) “Collector” means a person collecting or attempting to collect an alleged debt
24 arising out of a consumer transaction.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) "Consumer transaction" means any transaction involving a person seeking or
2 acquiring real or personal property, services, money, or credit for personal, family, or
3 household purposes.

4 (D) "DEBT BUYER" MEANS A PERSON THAT PURCHASES OR ACQUIRES DEBT
5 ARISING OUT OF A CONSUMER TRANSACTION FROM AN ORIGINAL CREDITOR.

6 (E) "ORIGINAL CREDITOR" MEANS THE PERSON THAT INITIALLY MAKES A
7 LOAN TO A CONSUMER IN CONNECTION WITH A CONSUMER TRANSACTION.

8 [(d)] (F) "Person" includes an individual, corporation, business trust, statutory
9 trust, estate, trust, partnership, association, two or more persons having a joint or common
10 interest, or any other legal or commercial entity.

11 14-202.

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

13 (1) Use or threaten force or violence;

14 (2) Threaten criminal prosecution, unless the transaction involved the
15 violation of a criminal statute;

16 (3) Disclose or threaten to disclose information which affects the debtor's
17 reputation for credit worthiness with knowledge that the information is false;

18 (4) Except as permitted by statute, contact a person's employer with
19 respect to a delinquent indebtedness before obtaining final judgment against the debtor;

20 (5) Except as permitted by statute, disclose or threaten to disclose to a
21 person other than the debtor or his spouse or, if the debtor is a minor, his parent,
22 information which affects the debtor's reputation, whether or not for credit worthiness,
23 with knowledge that the other person does not have a legitimate business need for the
24 information;

25 (6) Communicate with the debtor or a person related to him with the
26 frequency, at the unusual hours, or in any other manner as reasonably can be expected to
27 abuse or harass the debtor;

28 (7) Use obscene or grossly abusive language in communicating with the
29 debtor or a person related to him;

30 (8) Claim, attempt, or threaten to enforce a right with knowledge that the
31 right does not exist; or

1 (9) Use a communication which simulates legal or judicial process or gives
2 the appearance of being authorized, issued, or approved by a government, governmental
3 agency, or lawyer when it is not.

4 **(B) (1) A COLLECTOR MAY NOT ATTEMPT TO COLLECT A DEBT UNLESS**
5 **THE COLLECTOR POSSESSES VERIFIABLE INFORMATION REGARDING:**

6 **(I) THE OWNERSHIP OF THE DEBT, INCLUDING**
7 **DOCUMENTATION THAT THE COLLECTOR HAS THE RIGHT TO COLLECT THE DEBT;**

8 **(II) THE AMOUNT OF THE DEBT; AND**

9 **(III) THE CONNECTION OF THE DEBTOR, OR THE PERSON**
10 **RELATED TO THE DEBTOR, TO THE DEBT.**

11 **(2) AN AFFIDAVIT USED AS DOCUMENTATION OF A DEBT SHALL:**

12 **(I) CONTAIN AN ORIGINAL SIGNATURE;**

13 **(II) REFLECT THE ACTUAL DATE OF SIGNING; AND**

14 **(III) BE BASED ON THE DIRECT KNOWLEDGE OF THE SIGNATORY**
15 **AND THE SIGNATORY'S REVIEW OF THE RECORDS OF THE ORIGINAL CREDITOR, AND**
16 **IF APPLICABLE, THE DEBT BUYER.**

17 **(3) SUPPORTING DOCUMENTS IN A CIVIL ACTION, INCLUDING**
18 **AFFIDAVITS, MAY NOT BE CREATED SOLELY FOR THE PURPOSE OF FILING A CIVIL**
19 **ACTION.**

20 **(C) (1) AN ORIGINAL CREDITOR MAY NOT SELL A DEBT:**

21 **(I) FOR WHICH THE ORIGINAL CREDITOR DOES NOT POSSESS**
22 **THE INFORMATION REQUIRED UNDER SUBSECTION (B)(1) OF THIS SECTION;**

23 **(II) THAT HAS BEEN CHARGED OFF FOR 3 OR MORE YEARS;**

24 **(III) FOR WHICH THE DEBTOR HAS NOT MADE A PAYMENT**
25 **WITHIN 3 YEARS BEFORE THE PROPOSED SALE OF THE DEBT;**

26 **(IV) THAT IS THE SUBJECT OF ANY CIVIL ACTION;**

27 **(V) IF THE DEBTOR IS A MEMBER OF THE ARMED FORCES OF**
28 **THE UNITED STATES OR THE NATIONAL GUARD;**

1 (VI) IF THE DEBTOR IS DECEASED AT THE TIME OF THE
2 PROPOSED SALE OF THE DEBT; OR

3 (VII) THAT IS SUBJECT TO A PAYMENT PLAN OR PAYMENT
4 AGREEMENT WITH THE DEBTOR.

5 (2) AN ORIGINAL CREDITOR SHALL PROVIDE DOCUMENTATION TO A
6 DEBT BUYER REGARDING:

7 (I) THE AMOUNT OF THE DEBT;

8 (II) ANY ACTIONS THE ORIGINAL CREDITOR HAS TAKEN TO
9 COLLECT THE DEBT, INCLUDING INFORMATION REGARDING SPECIFIC
10 COMMUNICATIONS WITH THE DEBTOR; AND

11 (III) PAYMENTS THAT THE DEBTOR MADE TO THE ORIGINAL
12 CREDITOR.

13 (3) AN ORIGINAL CREDITOR THAT HAS SOLD A DEBT SHALL PROVIDE
14 THE DEBTOR WRITTEN NOTIFICATION SPECIFYING:

15 (I) THAT THE ORIGINAL CREDITOR HAS SOLD THE DEBT;

16 (II) THE NAME OF THE DEBT BUYER THAT PURCHASED THE
17 DEBT;

18 (III) THE TOTAL AMOUNT OF THE DEBT AT THE TIME OF SALE;
19 AND

20 (IV) THAT ADDITIONAL INFORMATION MAY BE REQUESTED BY A
21 DEBTOR AT NO ADDITIONAL CHARGE TO THE DEBTOR.

22 (D) A DEBT BUYER MAY NOT:

23 (1) PURCHASE A DEBT FROM ANOTHER DEBT BUYER; OR

24 (2) RESELL A DEBT UNLESS THE SALE IS TO THE ORIGINAL
25 CREDITOR.

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