S T A T E O F N E W Y O R K

3317

2013-2014 Regular Sessions

I N S E N A T E

January 31, 2013

Introduced by Sens. HASSELL-THOMPSON, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to disclosure by principal creditors and debt collection agencies of the legal obligations of a deceased debtor's family and household members

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 601-a to read as follows:

S 601-A. DISCLOSURE BY PRINCIPAL CREDITORS AND/OR DEBT COLLECTION AGENCIES. 1. ALL PRINCIPAL CREDITORS AND/OR DEBT COLLECTION AGENCIES SHALL DISCLOSE TO ANY RELATIVE OR HOUSEHOLD MEMBER OF A DECEASED DEBTOR THAT IS CONTACTED THAT HE OR SHE MAY NOT BE LEGALLY REQUIRED TO REPAY SUCH DECEASED DEBTOR'S DEBTS. IN ADDITION, THE PRINCIPAL CREDITORS AND/OR DEBT COLLECTION AGENCIES SHALL NOT MAKE ANY MISREPRESENTATION ABOUT THE FAMILY MEMBER'S OBLIGATION TO PAY SUCH DEBTS.

2. DISCLOSURE REQUIRED UNDER SUBDIVISION ONE OF THIS SECTION SHALL BE MADE BOTH ORALLY AND IN WRITING.

3. IN ADDITION TO ANY RIGHT OF ACTION GRANTED TO THE ATTORNEY GENERAL PURSUANT TO THIS ARTICLE, ANY AGGRIEVED PERSON MAY BRING AN ACTION TO ENJOIN SUCH UNLAWFUL PRACTICE AND TO RECOVER A CIVIL PENALTY OF FIVE THOUSAND DOLLARS FOR EACH VIOLATION, TOGETHER WITH ANY ACTUAL DAMAGES. THE COURT SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO A PREVAILING PLAINTIFF. FOR PURPOSES OF THIS SECTION, EACH COMMUNICATION THAT FAILS TO COMPLY WITH THIS SECTION SHALL CONSTITUTE A SEPARATE VIOLATION. CLASS ACTIONS TO RECOVER THE DAMAGES SET FORTH IN THIS SECTION ARE SPECIFICALLY AUTHORIZED.

S 2. Section 600 of the general business law is amended by adding a new subdivision 4 to read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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4. "DEBT COLLECTION AGENCY" SHALL MEAN A PERSON, FIRM OR CORPORATION ENGAGED IN BUSINESS, THE PRINCIPAL PURPOSE OF WHICH IS TO REGULARLY COLLECT OR ATTEMPT TO COLLECT DEBTS: (A) OWED OR DUE OR ASSERTED TO BE OWED OR DUE TO ANOTHER; OR (B) OBTAINED BY, OR ASSIGNED TO, SUCH PERSON, FIRM OR CORPORATION, THAT ARE IN DEFAULT WHEN OBTAINED OR ACQUIRED BY SUCH PERSON, FIRM OR CORPORATION.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.