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

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2009-2010 Regular Sessions

I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. PHEFFER, ZEBROWSKI, LANCMAN, REILLY, MILLMAN, KOON, GOTTFRIED, GALEF, CLARK, P. RIVERA, BENEDETTO, JAFFEE, FIELDS, PEOPLES, KAVANAGH -- Multi-Sponsored by -- M. of A. BENJAMIN, BOYLAND, CAHILL, DESTITO, DINOWITZ, FARRELL, HOYT, HYER-SPENCER, LIFTON, MAISEL, MARKEY, McENENY, N. RIVERA, ROBINSON, ROSENTHAL, SWEENEY, TITUS, TOWNS, WEISENBERG -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to debt collection requirements

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

Section 1. Section 600 of the general business law, as added by chapter 753 of the laws of 1973, is amended to read as follows:

S 600. Definitions. As used in this article, unless the context or subject matter otherwise requires:

1. "BOARD" SHALL MEAN THE CONSUMER PROTECTION BOARD.

2. "Consumer claim" means any obligation of a natural person for the payment of money or its equivalent which is or is alleged to be in default and which arises out of a transaction wherein credit has been offered or extended to a natural person, and the money, property or service which was the subject of the transaction was primarily for personal, family or household purposes. The term includes an obligation of a natural person who is a co-maker, endorser, guarantor or surety as well as the natural person to whom such credit was originally extended.

[2] 3. "Debtor" means any natural person who owes or who is asserted to owe a consumer claim.

[3] 4. "Principal creditor" means any person, firm, corporation or organization to whom a consumer claim is owed, due or asserted to be due or owed, or any assignee for value of said person, firm, corporation or organization.

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

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5. "THIRD PARTY DEBT COLLECTOR" SHALL MEAN ANY PERSON WHO REGULARLY COLLECTS OR ATTEMPTS TO COLLECT, DIRECTLY OR INDIRECTLY, DEBTS OWED OR DUE OR ASSERTED TO BE OWED OR DUE ANOTHER.

S 2. The general business law is amended by adding a new section 601-a to read as follows:

S 601-A. DEBT COLLECTION REQUIREMENTS. 1. IN EVERY NOTICE OF A PAST DUE DEBT SENT TO A DEBTOR FROM THE PRINCIPAL CREDITOR OR HIS OR HER AGENT, SUCH NOTICE SHALL SEPARATELY STATE:

(A) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PRINCIPAL CREDITOR OR HIS OR HER AGENT;

(B) THE ORIGINAL AMOUNT OF THE DEBT;

(C) THE DATE THE DEBT WAS DEEMED IN DEFAULT;

(D) THE ACCRUED INTEREST ON THE DEBT;

(E) A COPY OF THE LAST BILL OR NOTICE OF COLLECTION SENT FROM THE PRINCIPAL CREDITOR TO THE DEBTOR; AND

(F) IF APPLICABLE, A COPY OF THE LETTER ADVISING THE DEBTOR THAT HIS OR HER DEBT HAS BEEN SOLD OR TRANSFERRED.

2. EVERY PRINCIPAL CREDITOR OR HIS OR HER AGENT SHALL SEND A NOTICE TO THE LAST KNOWN ADDRESS OF THE DEBTOR ADVISING THE DEBTOR THAT HIS OR HER DEBT IS BEING SOLD OR TRANSFERRED TO AN AGENT OR THIRD PARTY DEBT COLLECTOR FOR THE PURPOSE OF DEBT COLLECTION. A COPY OF THIS NOTICE SHALL ALSO BE SENT TO THE ENTITY OR AGENT TO WHOM THE PRINCIPAL CREDITOR HAS AGREED TO SELL OR TRANSFER THE DEBT.

3. THE BOARD SHALL ESTABLISH ANY RULES AND REGULATIONS NECESSARY TO ADMINISTER THIS SECTION.

4. (A) WHERE IT IS DETERMINED AFTER HEARING THAT ANY PERSON HAS VIOLATED ONE OR MORE PROVISIONS OF THIS SECTION, THE DIRECTOR OF THE BOARD, OR ANY PERSON DEPUTIZED OR SO DESIGNATED BY HIM OR HER, MAY ASSESS A FINE NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH VIOLATION.

(B) ANY PROCEEDING CONDUCTED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE SUBJECT TO THE STATE ADMINISTRATIVE PROCEDURE ACT.

(C) NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO RESTRICT ANY RIGHT WHICH ANY PERSON MAY HAVE UNDER ANY OTHER STATUTE OR AT COMMON LAW.

S 3. Subdivision 1 of section 602 of the general business law, as added by chapter 753 of the laws of 1973, is amended to read as follows:

1. Except as otherwise provided by law, any person who [shall violate] VIOLATES the terms of SECTION SIX HUNDRED ONE OF this article [shall be] IS guilty of a misdemeanor, and each such violation shall be deemed a separate offense.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.