

# STATE OF NEW YORK

2829

2019-2020 Regular Sessions

## IN SENATE

January 29, 2019

Introduced by Sen. THOMAS -- 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 and the executive law, in relation to debt collection notices

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

3 § 601-b. Debt collection notice to consumers. 1. (a) As used in this  
4 section, "debt collection agency" shall mean a person, firm or corpo-  
5 ration engaged in business, the principal purpose of which is to regu-  
6 larly collect or attempt to collect debts: (i) owed or due or asserted  
7 to be owed or due to another; or (ii) obtained by, or assigned to, such  
8 person, firm or corporation, that are in default when obtained or  
9 acquired by such person, firm or corporation.

10 (b) Such term shall not include: (i) any person while serving or  
11 attempting to serve legal process on any other person in connection with  
12 the judicial enforcement of any debt;

13 (ii) any attorney-at-law or law firm collecting a debt in such capaci-  
14 ty on behalf of and in the name of a client through legal activities  
15 such as the filing and prosecution of lawsuits to reduce debts to judg-  
16 ments, but not any attorney-at-law or law firm which regularly engages  
17 in activities traditionally associated with debt collection, including  
18 but not limited to, sending demand letters or making collection tele-  
19 phone calls;

20 (iii) any officer or employee of the United States, any state thereof  
21 or any political subdivision of any state to the extent that collecting  
22 or attempting to collect any debt owed is in the performance of his or  
23 her official duties; or

24 (iv) any non-profit organization which, at the request of consumers,  
25 performs bona fide consumer credit counseling and assists customers in

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

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1 the liquidation of their debts by receiving payments from such customers  
 2 and distributing such amounts to creditors.

3 2. Each and every debt collection agency shall include in each initial  
 4 correspondence on a past due debt to a debtor a clear and conspicuous  
 5 written statement of at least the following items, in substantially the  
 6 following form, to be clearly and conspicuously labeled "Debtor's  
 7 Rights":

8 "Debtor's Rights

9 As a debtor who owes or may owe a consumer claim, you are given some  
 10 protection and rights by the New York and federal laws regulating debt  
 11 collection procedures. You should be aware of your rights.

12 1. A debt collector may contact you or any member of your family or  
 13 household directly. However, they may not contact you with such frequen-  
 14 cy, at unusual hours, or in a manner that can be expected to abuse or  
 15 harass you. They also cannot threaten action which they do not take in  
 16 the usual course of business.

17 2. A debt collector may not threaten to contact your employer regard-  
 18 ing a debt prior to obtaining a final judgment against you. However, a  
 19 debt collector may contact your employer to execute a wage assignment  
 20 agreement if you, the debtor, have agreed to the assignment.

21 3. A debt collector cannot use a communication which appears to be  
 22 authorized, issued, or approved by a government agency or attorney when  
 23 it is not.

24 4. A debt collector cannot disclose or threaten to disclose informa-  
 25 tion affecting your reputation for creditworthiness if the collector  
 26 knows or has reason to know the information is false. A debt collector  
 27 also cannot attempt or threaten to enforce a right when it knows or has  
 28 reason to know the right does not exist.

29 For more information about your rights under state and federal debt  
 30 collection procedures law, contact the Consumer Protection Division of  
 31 the New York State Department of State at (insert the current telephone  
 32 number or internet website established by the consumer protection divi-  
 33 sion for receiving inquiries from consumers). You may also contact the  
 34 New York State Attorney General at (insert the current telephone number  
 35 established by the department of law for receiving inquiries from  
 36 consumers) or (insert the current address of the website of the depart-  
 37 ment of law)."

38 The notice required by this subdivision shall be printed or written in  
 39 at least ten point bold type.

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

42 1. Except as otherwise provided by law, any person who [~~shall violate~~]  
 43 violates the terms of section six hundred one of this article [~~shall be~~]  
 44 is guilty of a misdemeanor, and each such violation shall be deemed a  
 45 separate offense. A violation by any person of section six hundred one-b  
 46 of this article, if such violation constitutes the first such offense by  
 47 such person, is punishable by a civil penalty not to exceed two hundred  
 48 fifty dollars. The second offense and any offense committed thereafter  
 49 are punishable by a civil penalty not to exceed five hundred dollars.

50 § 3. Paragraphs 14 and 15 of subdivision 3 of section 94-a of the  
 51 executive law, as added by section 21 of part A of chapter 62 of the  
 52 laws of 2011, are amended to read as follows:

53 (14) cooperate with and assist consumers in class actions in proper  
 54 cases; [~~and~~]

55 (15) create an internet website or webpage pursuant to section three  
 56 hundred ninety-c of the general business law; and

1 (16) create an internet website or webpage that includes the "Debtor's  
2 Rights" form established pursuant to subdivision two of section six  
3 hundred one-b of the general business law. Such website or webpage shall  
4 also include, but not limited to, a sample initial debt collection  
5 dispute letter, a sample debt collection cease and desist letter, and  
6 the current contact information for the attorney general and the federal  
7 trade commission.

8 § 4. This act shall take effect on the first of January next succeed-  
9 ing the date on which it shall have become a law.