

STATE OF NEW YORK

2829--A

Cal. No. 547

2019-2020 Regular Sessions

IN SENATE

January 29, 2019

Introduced by Sens. THOMAS, ADDABBO, BIAGGI, BROOKS, COMRIE, GAUGHRAN, GOUNARDES, KENNEDY, KRUEGER, LIU, MARTINEZ, MONTGOMERY, PARKER, PERSAUD, RAMOS, SALAZAR, SERRANO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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 consumer debts: (i) owed or due or
7 asserted to be owed or due to another; or (ii) obtained by, or assigned
8 to, such person, firm or corporation, that are in default when obtained
9 or acquired by such person, firm or corporation.

10 (b) Debt collection agencies shall not include: (i) any person subject
11 to (A) serving, filing, or conveying formal legal pleadings, discovery
12 requests, judgments or other documents pursuant to the applicable rules
13 of procedure; (B) communicating in, or at the direction of, a court of
14 law or in depositions or settlement conferences or other communications
15 in connection with a pending legal action to collect a debt on behalf of
16 a client; or (C) collecting on or enforcing a money judgment;

17 (ii) any attorney-at-law or law firm collecting a debt in such capaci-
18 ty on behalf of and in the name of a client through legal activities
19 such as prosecution of lawsuits to reduce debts to judgments, but not
20 any attorney-at-law or law firm which regularly engages in activities

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

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1 traditionally associated with debt collection, including but not limited
2 to, sending demand letters or making collection telephone calls;

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

7 (iv) any non-profit organization which, at the request of consumers,
8 performs bona fide consumer credit counseling and assists customers in
9 the liquidation of their debts by receiving payments from such customers
10 and distributing such amounts to creditors.

11 2. Each and every debt collection agency shall include in its initial
12 correspondence on a past due debt to a consumer the following written
13 statement labeled "Consumer Rights", in a clear and conspicuous manner,
14 and in a form identical or substantially similar to the following:

15 "Consumer's Rights

16 As a consumer who owes or may owe a consumer debt, you are given
17 protection and rights by the New York and federal laws regulating debt
18 collection procedures. You should be aware of your rights.

19 1. A debt collector cannot contact you with such frequency, at unusual
20 hours, or in a manner that can be expected to abuse or harass you. A
21 debt collector cannot use false or misleading statements when attempting
22 to collect a debt, such as collecting more than amount owed, or threaten
23 to garnish your wages or levy your bank account without first being
24 awarded a judgment by a court. A debt collector cannot contact you after
25 you have requested in writing that they cease communications, except to
26 acknowledge receipt of your letter.

27 2. A debt collector cannot threaten to contact your employer regarding
28 a debt prior to obtaining a final judgment against you unless such
29 contact is directly related to wage garnishments.

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

33 4. A debt collector cannot disclose or threaten to disclose informa-
34 tion affecting your reputation for creditworthiness if the collector
35 knows or has reason to know the information is false. A debt collector
36 also cannot attempt or threaten to enforce a right when it knows or has
37 reason to know the right does not exist.

38 For more information about your rights under state and federal debt
39 collection procedures law, contact the Consumer Protection Division of
40 the New York State Department of State at (insert the current telephone
41 number or internet website established by the consumer protection divi-
42 sion for receiving inquiries from consumers). You may also contact the
43 New York State Attorney General at (insert the current telephone number
44 established by the department of law for receiving inquiries from
45 consumers) or (insert the current address of the website of the depart-
46 ment of law), or the New York State Department of Financial Services at
47 (insert the current telephone number or internet website established by
48 the Department of Financial Services).

49 If you live in New York City, you may be entitled to additional
50 protections under the laws and rules of the city of New York. For infor-
51 mation about your rights under city law, contact the New York City
52 department of consumer affairs at 311 or www.NYC.gov/dca."

53 The notice required by this subdivision shall be printed or written in
54 at least twelve point bold type.

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

1 1. Except as otherwise provided by law, any person who [~~shall violate~~
2 violates the terms of section six hundred one of this article [~~shall be~~
3 is guilty of a misdemeanor, and each such violation shall be deemed a
4 separate offense. A violation by any person of section six hundred one-b
5 of this article, if such violation constitutes the first such offense by
6 such person, is punishable by a civil penalty not to exceed two hundred
7 fifty dollars. The second offense and any offense committed thereafter
8 are punishable by a civil penalty not to exceed five hundred dollars.

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

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

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

16 (16) create an internet website or webpage that includes the "Consum-
17 er's Rights" form established pursuant to subdivision two of section six
18 hundred one-b of the general business law. Such website or webpage shall
19 also include, but not limited to, a sample initial debt collection
20 dispute letter, a sample debt collection cease and desist letter, and
21 the current contact information for the attorney general and the federal
22 trade commission.

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