STATE OF NEW YORK

1035--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 13, 2023

Introduced by M. of A. BICHOTTE HERMELYN, DICKENS, TAYLOR, GIBBS, GONZALEZ-ROJAS, SIMON -- read once and referred to the Committee on Consumer Affairs and Protection -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to prohibiting the use of social media platforms, email or text messages for the purposes of collecting debts

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

Section 1. Section 601 of the general business law is amended by adding two new subdivisions 12 and 13 to read as follows:

12. Use a social media platform as a means to collect on a consumer claim from a debtor. For purposes of this subdivision, "social media platform" means a public or semi-public internet-based service or application that has users in New York state that meets the following criteria:

(a) a substantial function of the service or application is to connect users in order to allow users to interact socially with each other within the service or application. A service or application that provides e-mail or direct messaging services shall not be considered to meet this criterion on the basis of that function alone; and

(b) the service or application allows individuals to: (i) construct a public or semi-public profile for purposes of signing up and using the service or application; (ii) create a list of other users with whom they share a connection within the system; and (iii) create or post content viewable or audible by other users, including, but not limited to, livestreams, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users.

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

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13. (a) Initiate any communication with a debtor via e-mail or text message as a means to collect consumer debt. A debt collector shall not be deemed to have initiated a communication with a debtor if the communication by the debt collector is in response to a request made by the debtor for the communication or is the transmittal of monthly statements related to an existing payment plan or payment receipts related to an existing payment plan.

(b) This subdivision shall not apply to:

(i) communications initiated solely for the purpose of informing a debtor of a rescheduled court appearance date or discussing a mutually convenient date for a rescheduled court appearance;

(ii) principal creditors collecting or attempting to collect their own debt;

(iii) collecting or attempting to collect a debt which is, or is alleged to be, owed on a loan secured by a mortgage on real property; or

(iv) receiving and depositing payments the debtor chooses to make.

§ 2. This act shall take effect immediately.