

Maryland Fair Debt Collection Practices Act

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MARYLAND DEBT COLLECTOR REGULATION STATUTE

MD Code, Business Regulation

Maryland Fair Debt Collection Practices Act § 7-101. Definitions

- (a) In this title the following words have the meanings indicated.
- (b) "Board" means the State Collection Agency Licensing Board.
- (c) "Collection agency" means a person who engages directly or indirectly in the business of:
 - (1)(i) collecting for, or soliciting from another, a consumer claim; or
 - (ii) collecting a consumer claim the person owns, if the claim was in default when the person acquired it;
 - (2) collecting a consumer claim the person owns, using a name or other artifice that indicates that another party is attempting to collect the consumer claim;
 - (3) giving, selling, attempting to give or sell to another, or using, for collection of a consumer claim, a series or system of forms or letters that indicates directly or indirectly that a person other than the owner is asserting the consumer claim; or
 - (4) employing the services of an individual or business to solicit or sell a collection system to be used for collection of a consumer claim.
- (d) "Commissioner" means the Commissioner of Financial Regulation.
- (e) "Consumer claim" means a claim that:
 - (1) is for money owed or said to be owed by a resident of the State; and

(2) arises from a transaction in which, for a family, household, or personal purpose, the resident sought or got credit, money, personal property, real property, or services.

(f) "License" means a license issued by the Board to do business as a collection agency.

(g) "Licensed collection agency" means a person who is licensed by the Board to do business as a collection agency.

Maryland Fair Debt Collection Practices Act § 7-102. Scope of provisions

(a)(1) In this section the following words have the meanings indicated.

(2) "Common ownership" means direct or indirect ownership of more than 50% of a person.

(3) "Principal business" means a business activity of a person that comprises more than 50% of the total business activities of the person.

(b) This title does not apply to:

(1) a bank;

(2) a federal or State credit union;

(3) a mortgage lender;

(4) a person acting under an order of a court of competent jurisdiction;

(5) a licensed real estate broker, or an individual acting on behalf of the real estate broker, in the collection of rent or allied charges for property;

(6) a savings and loan association;

(7) a title company as to its escrow business;

(8) a trust company;

(9) a lawyer who is collecting a debt for a client, unless the lawyer has an employee who:

(i) is not a lawyer; and

(ii) is engaged primarily to solicit debts for collection or primarily makes contact with a debtor to collect or adjust a debt through a procedure identified with the operation of a collection agency; or

(10) a person who is collecting a debt for another person if:

- (i) both persons are related by common ownership;
- (ii) the person who is collecting a debt does so only for those persons to whom it is related by common ownership;
- (iii) the principal business of the person who is collecting a debt is not the collection of debts; and
- (iv) before collecting a debt, the person files with the Board:
 - 1. the correct name of the person;
 - 2. an address and telephone number of a contact person; and
 - 3. the name of the person's resident agent.

Maryland Fair Debt Collection Practices Act § 7-103. Operation and effect

- (a) This title does not prohibit the State Division of Consumer Protection or a local consumer protection unit from enforcing the Maryland Consumer Debt Collection Act [FN1] or local law.
- (b) A local or State unit may not bring an action against a licensed collection agency for a specific violation or complaint for which an action against the licensed collection agency has been brought by:
 - (1) the Board under this title; or
 - (2) the State Division of Consumer Protection or a local consumer protection unit under the Maryland Consumer Debt Collection Act or under local law.

Maryland Fair Debt Collection Practices Act § 7-104. Prohibition of local license

Only the State may require a person to hold a license or to pay a fee to do business as a collection agency.

Maryland Fair Debt Collection Practices Act § 7-201. State Board established

There is a State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation in the Department.

Maryland Fair Debt Collection Practices Act § 7-202. Composition

(a)(1) The Board consists of the following 5 members:

(i) as an ex officio member, the Commissioner; and

(ii) 4 members appointed by the Governor with the advice and consent of the Senate.

(2) Of the 4 appointed members:

(i) 2 shall represent collection agencies; and

(ii) 2 shall be consumer members.

(b)(1) Each consumer member of the Board:

(i) shall be a member of the general public; and

(ii) shall be:

1. an officer or member of the board of a recognized consumer group in the State; or

2. an employee of a local consumer protection unit in the State.

(2) A consumer member of the Board may not:

(i) be a licensee or otherwise be subject to regulation by the Board; or

(ii) within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(c) While a member of the Board, a consumer member may not have a financial interest in or receive compensation from a person regulated by the Board.

(d) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e)(1) The term of an appointed member is 4 years and begins on July 1.

(2) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.

(3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(f) The Governor may remove an appointed member for incompetence or misconduct.

Maryland Fair Debt Collection Practices Act § 7-203. Chairman

The Commissioner is chairman of the Board.

Maryland Fair Debt Collection Practices Act § 7-204. Meetings

- (a) The Board shall set the times and places of its meetings.
- (b) Each member of the Board is entitled to reimbursement for expenses under the Standard State Travel Regulations, [FN1] as provided in the State budget.
- (c) The Board may employ a staff in accordance with the State budget.

Maryland Fair Debt Collection Practices Act § 7-205. Enforcement

- (a) To carry out this title, the Board may, subject to § 7-103(b) of this title:
 - (1) receive a written complaint and hold a hearing on an alleged violation by a collection agency of the Maryland Consumer Debt Collection Act [FN1] or this title;
 - (2) mediate a dispute between a consumer and a collection agency and suggest monetary compensation of the consumer in an amount agreeable to the consumer and collection agency or other appropriate resolution or both; and
 - (3) issue orders:
 - (i) to cease and desist from the violation and any further similar violations; or
 - (ii) requiring the violator to take affirmative action to correct the violation.
- (b) If a violator fails to comply with a lawful order issued by the Board, the Board may impose a penalty of up to \$500 for each violation cited in the order, not to exceed \$5,000, from which the violator failed to cease and desist or for which the violator failed to take affirmative action to correct, as ordered by the Board.
- (c) In determining the amount of any penalty to be imposed under subsection (b) of this section, the Board shall consider:
 - (1) the seriousness of the violation;
 - (2) the good faith of the violator;
 - (3) the violator's history of previous violations;
 - (4) the deleterious effect of the violation on the public and the collection industry; and
 - (5) any other factors relevant to the determination of the financial penalty.

Maryland Fair Debt Collection Practices Act § 7-206. Disposition of funds collected

The Board shall pay all money collected under this title into the general fund of the State.

Maryland Fair Debt Collection Practices Act § 7-301. License required

(a) Except as otherwise provided in this title, a person must have a license whenever the person does business as a collection agency in the State.

(b) This section does not apply to:

(1) a regular employee of a creditor while the employee is acting under the general direction and control of the creditor to collect a consumer claim that the creditor owns; or

(2) a regular employee of a licensed collection agency while the employee is acting within the scope of employment.

Maryland Fair Debt Collection Practices Act § 7-302. Applications

(a) An applicant for a license shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) pay to the Board an application fee of \$400.

(b) An application shall be made under oath.

(c) If an applicant wishes to do business as a collection agency at more than 1 place, the applicant shall submit a separate application and pay a separate application fee for each place.

(d) An application fee is nonrefundable.

(e) Before a license expires, the licensee periodically may renew the license for additional 2-year terms, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a renewal fee of \$400;

(3) submits to the Board a renewal application on a form required by the Board; and

(4) files with the Board a bond or bond continuation certificate as required under § 7-304 of this subtitle.

Maryland Fair Debt Collection Practices Act § 7-303. Approval or denial

(a) Within 60 days after an applicant submits an application for a license and pays the application fee, the Board shall approve or deny the application.

(b) To qualify for a license, an applicant shall satisfy the Board that the applicant is of good moral character and has sufficient financial responsibility, business experience, and general fitness to:

(1) engage in business as a collection agency;

(2) warrant the belief that the business will be conducted lawfully, honestly, fairly, and efficiently; and

(3) command the confidence of the public.

(c) The Board may deny an application for a license to any person who:

(1) has committed any act that would be a ground for reprimand, suspension, or revocation of a license under this subtitle; or

(2) otherwise fails to meet the requirements for licensure.

(d)(1) The denial of an application under this section is subject to the hearing provisions of § 7-309 of this subtitle.

(2) An applicant who seeks a hearing on a license application denial shall file a written request for a hearing within 45 days following receipt of the notice to the applicant of the applicant's right to a hearing.

Maryland Fair Debt Collection Practices Act § 7-304. Surety bond

(a)(1) An applicant for a license shall execute a surety bond for the benefit of any member of the public who has a loss or other damage as a result of a violation of this title or the Maryland Consumer Debt Collection Act [FN1] by the applicant or an agent or employee of the applicant.

(2) The surety bond shall be:

(i) in a form that the Board approves;

(ii) with a surety that the Board approves; and

(iii) in the amount of \$5,000.

(3) The total liability of a surety on a bond under this section may not exceed the amount of the bond, regardless of the number or amount of claims against the bond.

(4) If the amount of claims against a bond exceeds the amount of the bond, the surety:

(i) shall pay the amount of the bond to the Board for distribution to claimants; and

(ii) then is relieved of liability under the bond.

(b) The Board shall issue a license to each applicant who meets the requirements of this subtitle.

Maryland Fair Debt Collection Practices Act § 7-305. Scope

(a) A license authorizes the licensee to do business as a collection agency at only 1 place of business.

(b) A licensee may hold more than 1 license under this title.

Maryland Fair Debt Collection Practices Act § 7-306. Expiration

(a)(1) A license issued on or before September 30, 1997, expires on December 31 of the year in which it was issued.

(2) A license issued on or after October 1, 1997, expires on December 31 in each odd-numbered year after December 31, 1997.

(b) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

Maryland Fair Debt Collection Practices Act § 7-307. Surrender

(a) A licensee may surrender a license by giving the Board written notice that the license is surrendered.

(b) Surrender of a license does not affect:

(1) the civil or criminal liability of the licensee for an act committed before surrender of the license; or

(2) the obligation of a claim that the licensee lawfully acquired before the surrender.

Maryland Fair Debt Collection Practices Act § 7-308. Suspension and revocation

(a) Subject to the hearing provisions of § 7-309 of this subtitle, the Board may reprimand a licensee or suspend or revoke a license if the licensee or any owner, director, officer, member, partner, or agent of the licensee:

(1) makes any material misstatement in an application for a license;

(2) is convicted under the laws of the United States or of any state of:

(i) a felony; or

(ii) a misdemeanor that is directly related to the fitness and qualification of the person to engage in the collection agency business;

(3) in connection with the collection of any consumer claim:

(i) commits any fraud; or

(ii) engages in any illegal or dishonest activities;

(4) knowingly or negligently violates the Maryland Consumer Debt Collection Act; or

(5) fails to comply with a lawful order that the Board passes under this title.

(b) If the Board finds that a ground for suspension or revocation of a license applies to more than 1 place of business that the licensee operates, the Board may act against:

(1) each license of the licensee; or

(2) only the licenses to which the ground applies.

(c) In determining whether to reprimand a licensee or to suspend or revoke a license for a reason described in subsection (a)(2) of this section, the Board shall consider:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the licensee to engage in the collection agency business;

(4) the length of time since the conviction; and

(5) the behavior and activities of the licensee since the conviction.

Maryland Fair Debt Collection Practices Act § 7-309. Hearings

(a)(1) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 7-308 of this subtitle, or under § 7-205 of this title, it shall give the person against whom the action is contemplated an opportunity for a hearing before the Board.

(2) A hearing shall be held at a time and place reasonably convenient to the parties.

(b) The Board shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Board may administer oaths in connection with a proceeding under this section.

(d) The Board may issue a subpoena for the attendance of a witness to testify at a hearing under this section, but not for investigative purposes.

(e) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Board may hear and determine the matter.

(f) The Board may enforce a lawful order issued under this title by filing an action to enforce the order in the circuit court for the county:

(1) where the licensee which is the subject of the order has its principal place of business; or

(2) if the licensee has no principal place of business in the State, where the consumer aggrieved by the violation resides.

Maryland Fair Debt Collection Practices Act § 7-310. Review; appeal

A party to a proceeding before the Board who is aggrieved by a final decision of the Board in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

Maryland Fair Debt Collection Practices Act § 7-311. Revocation or suspension; effect

The suspension or revocation of a license does not affect the obligation of a claim that the licensee lawfully acquired before the suspension or revocation.

Maryland Fair Debt Collection Practices Act § 7-401. Prohibited acts

(a) Except as otherwise provided in this title, a person may not knowingly and willfully do business as a collection agency in the State unless the person has a license.

(b) A person who violates this section is guilty of a misdemeanor, and on conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 6 months or both.

Maryland Fair Debt Collection Practices Act § 7-501. Short title

This title is the Maryland Collection Agency Licensing Act.

Maryland Fair Debt Collection Practices Act § 7-502. Termination of provisions

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, [FN1] this title and all regulations adopted under this title shall terminate on July 1, 2012.

MD CODE, COMMERCIAL LAW

Maryland Fair Debt Collection Practices Act § 14-201. Definitions

- (a) In this subtitle the following words have the meanings indicated.
- (b) "Collector" means a person collecting or attempting to collect an alleged debt arising out of a consumer transaction.
- (c) "Consumer transaction" means any transaction involving a person seeking or acquiring real or personal property, services, money, or credit for personal, family, or household purposes.
- (d) "Person" includes an individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

Maryland Fair Debt Collection Practices Act § 14-202. Proscribed conduct

In collecting or attempting to collect an alleged debt a collector may not:

- (1) Use or threaten force or violence;
- (2) Threaten criminal prosecution, unless the transaction involved the violation of a criminal statute;
- (3) Disclose or threaten to disclose information which affects the debtor's reputation for credit worthiness with knowledge that the information is false;
- (4) Except as permitted by statute, contact a person's employer with respect to a delinquent indebtedness before obtaining final judgment against the debtor;
- (5) Except as permitted by statute, disclose or threaten to disclose to a person other than the debtor or his spouse or, if the debtor is a minor, his parent, information which affects

the debtor's reputation, whether or not for credit worthiness, with knowledge that the other person does not have a legitimate business need for the information;

(6) Communicate with the debtor or a person related to him with the frequency, at the unusual hours, or in any other manner as reasonably can be expected to abuse or harass the debtor;

(7) Use obscene or grossly abusive language in communicating with the debtor or a person related to him;

(8) Claim, attempt, or threaten to enforce a right with knowledge that the right does not exist; or

(9) Use a communication which simulates legal or judicial process or gives the appearance of being authorized, issued, or approved by a government, governmental agency, or lawyer when it is not.

Maryland Fair Debt Collection Practices Act § 14-203. Damages

A collector who violates any provision of this subtitle is liable for any damages proximately caused by the violation, including damages for emotional distress or mental anguish suffered with or without accompanying physical injury.

Maryland Fair Debt Collection Practices Act § 14-204. Short title

This subtitle may be cited as the Maryland Consumer Debt Collection Act.