

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2015-177
SENATE BILL 678

AN ACT TO AMEND THE DEBT COLLECTOR STATUTES TO MORE NEARLY CONFORM TO THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 75-50 is amended by adding a new subdivision to read:

"§ 75-50. Definitions.

The following words and terms as used in this Article shall be construed as follows:

- ...
- (4) "Location information" means information about a consumer's place of abode, any telephone numbers used by the consumer, and information about the consumer's place of employment."

SECTION 2. G.S. 75-53(1) reads as rewritten:

"§ 75-53. Unreasonable publication.

No debt collector shall unreasonably publicize information regarding a consumer's debt. Such unreasonable publication includes, but is not limited to, the following:

- (1) Any communication with any person other than the debtor or his attorney, except:
- a. ~~With the written permission of the debtor or his attorney given after default; To designated third parties with the written permission of the debtor or his attorney.~~
 - b. To persons employed by the debt collector, to a credit reporting agency, to a person or business employed to collect the debt on behalf of the creditor, or to a person who makes a legitimate request for the information; information.
 - c. To the spouse (or one who stands in place of the spouse) of the debtor, or to the parent or guardian of the debtor if the debtor is a minor and lives in the same household with such parent; parent. If the debt collector has a good faith belief that the exception set forth in this sub-subdivision applies to a particular communication, that communication shall not be a violation of this sub-subdivision.
 - d. For the sole purpose of locating obtaining location information about the debtor, if no indication of indebtedness is made; made. A debt collector making a communication under this sub-subdivision shall:
 1. Identify himself or herself, state that he or she is attempting to confirm or correct location information about the debtor, and, only if expressly requested to do so, identify his or her employer.
 2. Not state that the debtor owes a debt.
 3. Not communicate with any particular person more than once per week or a total of three times during any 30-day period unless requested to do so by the person.
 - e. Through legal process."

SECTION 3. G.S. 75-54 reads as rewritten:

"§ 75-54. Deceptive representation.

No debt collector shall collect or attempt to collect a debt or obtain information concerning a consumer by any fraudulent, deceptive or misleading representation. Such representations include, but are not limited to, the following:



- ...
- (2) Failing to disclose in all communications attempting to collect a debt that the purpose of such communication is to collect a ~~debt~~ debt, unless the communication is made to a third-party pursuant to G.S. 75-53 for the purpose of obtaining location information about the debtor.

...."

SECTION 4. G.S. 75-55 reads as rewritten:

"§ 75-55. Unconscionable means.

No debt collector shall collect or attempt to collect any debt by use of any unconscionable means. Such means include, but are not limited to, the following:

- (1) Seeking or obtaining any written statement or acknowledgment in any form containing an affirmation of any debt by a consumer who has been declared bankrupt, an acknowledgment of any debt barred by the statute of limitations, or a waiver of any legal rights of the debtor without disclosing the nature and consequences of such affirmation or waiver and the fact that the consumer is not legally obligated to make such affirmation or waiver.
- (2) Collecting or attempting to collect from the consumer all or any part of the debt collector's fee or charge for services rendered, collecting or attempting to collect any interest or other charge, fee or expense incidental to the principal debt unless legally entitled to such fee or charge. Nothing in this section shall be construed to prohibit the collection of filing fees, service of process fees, or other court costs actually incurred. The collection of such fees is not a violation of this Article or of Article 15 of Chapter 53 of the General Statutes.
- (3) Communicating with a consumer (other than a statement of account used in the normal course of business) whenever the debt collector has been notified by the consumer's attorney that he represents said consumer.
- (4) Bringing suit against the debtor in a county other than that in which the debt was incurred or in which the debtor resides if the distances and amounts involved would make it impractical for the debtor to defend the claim."

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of July, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 3:00 p.m. this 5th day of August, 2015