

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 167

Session of
1975

INTRODUCED BY MR. SCHMITT, MRS. GILLETTE, MESSRS. RENNINGER,
A. K. HUTCHINSON, BELLOMINI, MRS. TOLL, MESSRS. ZEARFOSS,
SHANE, VANN, ROMANELLI, MANDERINO, LAUGHLIN, COHEN, ROSS,
TRELLO, ABRAHAM, DeMEDIO, DOMBROWSKI, SCHWEDER, TAYLOR, REED,
WOJDAK, RAPPAPORT, GREENFIELD, MORRIS, BERLIN,
PIEVSKY, MUSTO, SHUPNIK, GREEN, PERRY, O'KEEFE, GARZIA, ZORD,
JOHNSON, STAPLETON, FEE, KOWALYSHYN, RUGGIERO, WARGO, IRVIS,
WALSH, O'DONNELL, GIAMMARCO AND McLANE, JANUARY 28, 1975

AS RE-REPORTED FROM COMMITTEE ON CONSUMER PROTECTION, HOUSE OF
REPRESENTATIVES, AS AMENDED, JULY 14, 1975

AN ACT

1 Regulating debt collection practices and providing penalties.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. Short Title.--This act shall be known and may be
5 cited as the "Unfair Debt Collection Practices Law."

6 Section 2. Definitions.--As used in this act:

7 "Claim" or "debt" means and includes any actual or alleged
8 obligation, claim, demand, account, note or any other chose in
9 action or liability of any type whatsoever asserted against any
10 person, in any capacity, including but not limited to that of a
11 consumer, purchaser, borrower, mortgagor, lessee, surety or
12 guarantor.

13 "Debt collector" means any person who directly or indirectly,
14 collects or attempts to collect any claim or debt on his own

1 behalf or on behalf of another. This includes any person who
2 sells, or offers to sell forms represented to be a collection
3 system, device, or scheme which is intended or calculated to be
4 used to collect claims or debts.

5 "Debtor" means any person who owes or is alleged to owe any
6 claim or debt.

7 Section 3. Prohibited Practices.--No debt collector shall in
8 collecting, or attempting to collect a debt, engage in any of
9 the following prohibited practices:

10 (1) Communicate, threaten to communicate or imply the fact
11 of such debt or alleged debt to any person, other than the
12 debtor, his or her spouse or relatives residing with the debtor
13 or the debtor's attorney or legal representative or one who the
14 creditor believes might reasonably be expected to be liable
15 therefor. Provisions of this clause shall not prohibit a debt
16 collector from reporting a debt or alleged debt to a ~~credit~~ <—
17 ~~bureau~~ CONSUMER REPORTING AGENCY or from engaging an agent or an <—
18 attorney for the purpose of collecting a debt or an alleged debt
19 or from communicating with other persons for the purpose of
20 locating the debtor or the assets of the debtor. For the
21 purposes of this clause, the use of language on envelopes
22 indicating that the communication relates to the collection of a
23 debt shall be deemed a communication of such debt or alleged
24 debt. Nothing in this clause shall limit an attorney-at-law from
25 exercising any procedural or substantive right available to the
26 claimant.

27 (2) Communicate with the alleged debtor in such a manner so
28 as to harass or intimidate said alleged debtor as follows: (i)
29 use of profane or obscene language or language the natural
30 consequence of which is to abuse the hearer or reader; (ii)

1 placement of telephone calls without a meaningful disclosure of
2 the identity of the caller; (iii) causing expense to any person
3 in the form of long distance telephone tolls, telegram fees or
4 other charges incurred through the use of a medium of
5 communication, by concealment of the true purpose of the notice,
6 letter, message or communication; (iv) causing a telephone to
7 ring or engaging any person in telephone conversation with
8 unreasonable frequency, or at unreasonable hours; or (v) by
9 threats of violence or by any threats which the debt collector
10 knows or has reason to know are false.

11 (3) Collect or attempt to collect a claim by the use of any
12 misleading, deceptive, false or fraudulent means or
13 representations.

14 (4) Collect or attempt to collect a claim by the use of any
15 communication or publication ~~which falsely simulates judicial~~ <—
16 ~~process or~~ which falsely indicates either directly or indirectly
17 that he is associated with or approved of by a ~~State or local~~ <—
18 ANY GOVERNMENTAL official or agency. <—

19 ~~(5) Communicate with a debtor after written notification~~ <—
20 ~~from an attorney representing such debtor that all further~~
21 ~~communications relative to the claim shall be addressed to him.~~

22 ~~(6) Unless a licensed attorney in this Commonwealth, engages~~
23 ~~in conduct deemed to be the practice of law, including but not~~
24 ~~limited to any false representation, either directly or by~~
25 ~~implication, by any means whatsoever, that he is an attorney.~~

26 ~~(7) Place any telephone call in an effort to collect a debt~~
27 ~~or to learn information concerning a debt or debtor without~~
28 ~~disclosing his identity and his place of employment or business,~~
29 ~~if any.~~

30 ~~(8) Use any unconscionable means of collection, including,~~

1 ~~but not limited to, any attempt to collect from a debtor any~~
2 ~~part or all of his fee or charge for services rendered, or~~
3 ~~attempt to collect any charges, fees, or expenses in addition to~~
4 ~~the amount of the claim unless expressly listed in the judgment~~
5 ~~or order of the court. Nothing in this paragraph shall affect~~
6 ~~the right to include reasonable attorney fees and suit costs,~~
7 ~~late charges, interest and collection expenses and reasonable~~
8 ~~charges actually incurred in any instrument of indebtedness, the~~
9 ~~judgment or order of the court nor the collection thereof from~~
10 ~~the debtor.~~

11 (5) UNLESS A LICENSED ATTORNEY IN THIS COMMONWEALTH, ENGAGES <—
12 IN CONDUCT DEEMED TO BE THE PRACTICE OF LAW.

13 (6) USE ANY MEANS OF COLLECTING OR ATTEMPTING TO COLLECT ANY
14 PART OR ALL OF HIS FEE OR CHARGE FOR SERVICES RENDERED, OR ANY
15 CHARGES, FEES, OR EXPENSES IN ADDITION TO THE AMOUNT OF THE
16 CLAIM UNLESS EXPRESSLY AUTHORIZED BY THE ORIGINAL WRITTEN
17 EVIDENCE OF INDEBTEDNESS OR BY COURT ORDER. NOTHING IN THIS
18 CLAUSE (6) SHALL AFFECT THE RIGHT TO INCLUDE REASONABLE ATTORNEY
19 FEES, LATE CHARGES AND SUIT COSTS OR EXPENSES ACTUALLY INCURRED
20 IN ANY INSTRUMENT OF INDEBTEDNESS NOR THE COLLECTION THEREOF
21 FROM THE DEBTOR.

22 Section 4. Restraining Prohibited Acts.--Whenever the
23 Attorney General or a District Attorney has reason to believe
24 that any ~~person~~ DEBT COLLECTOR is using or is about to use any <—
25 method, act or practice declared by this act to be ~~unlawful~~ A <—
26 PROHIBITED PRACTICE, and the proceedings would be in the public
27 interest, he may bring an action in the name of the Commonwealth
28 against such ~~person~~ DEBT COLLECTOR to restrain by temporary or <—
29 permanent injunction the use of any such method, act or
30 practice. Such action may be brought in the court of common

1 pleas in the county in which such debt collector resides, has
2 his principal place of business, or is doing business. Any party
3 adversely affected by the court's decision may appeal such
4 decision to the Commonwealth Court in the manner prescribed by
5 law for appeals to such court.

6 Section 5. Civil Penalties.--Any person who violates the
7 terms of an injunction issued under section 4 of this act shall
8 forfeit and pay to the Commonwealth a civil penalty of not more
9 than \$1,000 for each violation. For the purposes of this section
10 a court of common pleas issuing an injunction shall retain
11 jurisdiction, and the cause shall be continued and, in such
12 cases, the Attorney General or District Attorney, acting in the
13 name of the Commonwealth may petition for recovery of civil
14 penalties.

15 Section 6. Private Remedies.--Any person who sustains
16 damages caused by a debt collector violating any of the
17 provisions of this act may bring a civil action against such
18 debt collector to recover such damages plus reasonable
19 ~~attorney's fees and costs.~~

<—

20 Section 7. Limitation of Action.--No action pursuant to
21 section 6 of this act shall be commenced after one year from the
22 accrual of the cause of action.