

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

2

SENATE BILL 678
Judiciary II Committee Substitute Adopted 4/28/15

Short Title: Amend Debt Collection Statutes.

(Public)

Sponsors:

Referred to:

March 30, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE DEBT COLLECTOR STATUTES TO MORE NEARLY
3 CONFORM TO THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT.

4 The General Assembly of North Carolina enacts:

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

6 "**§ 75-50. Definitions.**

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

8 ...

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

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

13 "**§ 75-53. Unreasonable publication.**

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

- 16 (1) Any communication with any person other than the debtor or his attorney,
17 except:
- 18 a. ~~With the written permission of the debtor or his attorney given after~~
19 ~~default;~~To third parties with the written permission of the debtor or
20 his attorney.
 - 21 b. To persons employed by the debt collector, to a credit reporting
22 agency, to a person or business employed to collect the debt on
23 behalf of the creditor, or to a person who makes a legitimate request
24 for the ~~information;~~information.
 - 25 c. To the spouse (or one who stands in place of the spouse) of the
26 debtor, or to the parent or guardian of the debtor if the debtor is a
27 minor and lives in the same household with such ~~parent;~~parent. If the
28 debt collector has a good faith belief that the exception set forth in
29 this sub-subdivision applies to a particular communication, that
30 communication shall not be a violation of this sub-subdivision.
 - 31 d. For the sole purpose of ~~locating~~obtaining location information about
32 the debtor, if no indication of indebtedness is ~~made;~~made. A debt
33 collector making a communication under this sub-subdivision shall:
 - 34 1. Identify himself or herself, state that he or she is attempting to
35 confirm or correct location information about the debtor, and,



1 only if expressly requested to do so, identify his or her
 2 employer.

3 2. Not state that the debtor owes a debt.

4 3. Not communicate with any particular person more than once
 5 per week or a total of three times during any 30-day period
 6 unless requested to do so by the person.

7 e. Through legal process."

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

9 **"§ 75-54. Deceptive representation.**

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

- 13 ...
 14 (2) Failing to disclose in all communications attempting to collect a debt that the
 15 purpose of such communication is to collect a ~~debt~~debt, unless the
 16 communication is made to a third-party pursuant to G.S. 75-53 for the
 17 purpose of obtaining location information about the debtor.

18"

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

20 **"§ 75-55. Unconscionable means.**

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

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

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