

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND EIGHTH LEGISLATURE

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## Legislative Document

No. 1130

H. P. 933

House of Representatives, March 22, 1977

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Mitchell of Vassalboro.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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### AN ACT to Provide for Notifying the Debtor before his Debt is Turned over to a Collection Agency.

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Be it enacted by the People of the State of Maine, as follows:

32 MRSA § 576, as amended by PL 1967, c. 205, is further amended to read:

§ 576. Prohibited practices

No collection agency shall: Threaten to bring legal action in its own name or list the name of a lawyer; use or employ justices of the peace, constables, sheriffs or any other officer authorized to serve legal papers in connection with the collection of a claim; use or threaten to use physical violence in connection with the collection of claims; furnish legal advice or otherwise engage in the practice of law or represent that it is competent to do so, or institute judicial proceedings on behalf of others; communicate with debtors in the name of a lawyer or upon the stationery of a lawyer, or prepare any forms or instruments which only lawyers are authorized to prepare; purchase, receive or solicit assignments of claims for the purpose of collection, or institute suits thereon in any court; use instruments which simulate the form and appearance of judicial process; exercise authority on behalf of a creditor to employ the services of lawyers unless the creditor has specifically authorized the agency in writing to do so and the agency's course of conduct is at all times consistent with the true relationship of attorney and client between the lawyer and the creditor; demand or obtain in any manner a share of the compensation for services performed by a lawyer in collecting a claim; publish or cause to be published any list of debtors except for credit reporting purposes or threaten to do so; use "shame cards," "shame automobiles," or similar devices, methods of intimidation or methods contrary to postal regu-

lations to collect accounts; refuse to return any claim or claims upon written request of the creditor, claimant or forwarder after the tender of such amounts, if any, as may be due and owing to the agency; advertise or threaten to advertise for sale any claim as a means of forcing payment thereof, unless such agency is acting as the assignee for the benefit of creditors or acting under an order of court; refuse or intentionally fail to account to its clients for all money collected within 60 days from the last day of the month in which the same is collected; refuse or intentionally fail to return to the creditor all valuable papers deposited with a claim when such claim is returned, operate under a name or in a manner which implies that such agency is a branch of or associated with any department of the Federal Government or of any state or municipal government, or use any seal, insignia, envelope or other format which simulates that of any government department or agency; commingle money collected for a customer with the agency's own funds or use any part of a customer's money in the conduct of the agency's business; share quarters or office space, or have a common waiting room with a practicing lawyer; make repeated or harassing communications to employers, or make collect telephone calls by subterfuge; engage in the business of lending money to any person, or contact any person for the purpose of securing a loan for any person with which to pay any claim left with it for collection, or recommend any person or persons as a source of funds to pay any such claim; collect or attempt to collect from any person an amount in excess of the amount submitted by the creditor for collection; **collect or attempt to collect from any person any amount of any claim unless the creditor has first given the debtor notice by certified mail, return receipt requested, of its intention to forward the claim to a collection agency if a stated amount of payment is not made within 20 days of receipt of such letter.** Violation of any provision of this section shall constitute a violation of Title 5, section 207.

#### STATEMENT OF FACT

The purpose of this bill is to require creditors to notify debtors prior to their forwarding a claim to a professional debt collection business.