

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 621

H. P. 545

House of Representatives, February 4, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Gwadosky of Fairfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT Concerning Illegal, Fraudulent or Unconscionable Conduct in Attempted Collection of Debts.

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

Sec. 1. 9-A MRSA § 5-116, sub-§ 1, ¶¶'s D and E, as enacted by PL 1973, c. 762, § 1, are repealed.

Sec. 2. 9-A MRSA § 5-116, sub-§ 1, ¶E-1 is enacted to read:

E-1. Communicate or threaten to communicate, directly or indirectly, to a person other than the debtor in any manner, except that:

(1) Communications regarding a debt may be made to the debtor's resident spouse, parent if the debtor is a minor, debtor's guardian, executor, administrator, attorney, a consumer reporting agency if otherwise permitted by law, the attorney of the creditor or anyone else that the debtor designates in writing to receive such communication; and

(2) The creditor may contract persons for the purpose of seeking information as to the location of the debtor, the debtor's residence, any published telephone number at such residence, and the location of the debtor's place of employment, only if the creditor: Has been unable to ascertain the location information after reasonable effort; identifies himself and, only if requested, identifies his employer; states that the purpose of such

communication is solely the confirmation or correction of location information concerning the debtor; does not state, directly or indirectly that the debtor owes any debt; and does not communicate with that person more than once unless the creditor has reason to believe that the earlier response of that person is erroneous or incomplete or that the person subsequently has correct or more complete location information of which the creditor is unaware.

Sec. 3. 9-A MRSA § 5-116, sub-§ 1, ¶H, as enacted by PL 1973, c. 762, § 1, is amended to read:

H. Use a communication which simulates legal or judicial process or which gives the appearance of being authorized, issued or approved by a government, government agency or attorney-at-law when it is not; or

Sec. 4. 9-A MRSA § 5-116, sub-§ 1, ¶¶J and K are enacted to read:

J. Engage any debtor in communication by telephone, initiated by the creditor, in excess of 2 calls in any 7-day period at a debtor's residence and 2 calls in any 30-day period at a location other than the debtor's residence, for each debt; provided that for purposes of this paragraph, a creditor may treat any billing address of the debtor as his place of residence; or

K. Communicate or threaten to communicate with the debtor at his place of employment if the debtor has made a written or oral request that such communication not take place.

STATEMENT OF FACT

This bill would extend current consumer protections limited unfair debt collections' practices to creditors. Current law protects consumers from these unconscionable practices when undertaken by 3rd parties such as collection agencies.

The new law would: Prohibit contacts with the debtor's employer, limit a creditor's authority to contact 3rd parties to ask only questions about where to find the debtor, place reasonable limits on telephone contacts with the debtor; and establish the right of the debtor to prohibit the creditor from harassing him at his place of employment.