

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

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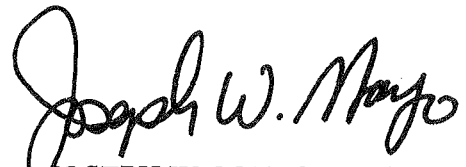
House of Representatives, April 24, 1997

An Act to Amend the Laws Governing Debt Collection Activities.

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Received by the Clerk of the House on April 22, 1997. Referred to the Committee on Business and Economic Development pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.


JOSEPH W. MAYO, Clerk

Presented by Representative CIANCHETTE of South Portland.
Cosponsored by Senator: AMERO of Cumberland.

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

2 **Sec. 1. 32 MRSA §11011**, as enacted by PL 1985, c. 702, §2,
4 is amended to read:

6 **§11011. Acquisition of location information**

8 **1. Communication with person other than consumer.** Any debt
10 collector communicating with any person other than the consumer
for the purpose of acquiring location information about the
consumer shall:

12 A. ~~Identify himself~~ Shall state that debt collector's
14 identity; state that he the debt collector is confirming or
correcting location information concerning the consumer;
16 and, only if expressly requested, identify ~~his~~ the employer
of the debt collector;

18 B. ~~Not May not~~ state that the consumer owes any debt;

20 C. ~~Not May not~~ communicate with any such person more than
22 once, unless requested to do so by that person or unless the
debt collector reasonably believes that the earlier response
24 of that person is erroneous or incomplete and that the
person now has correct or complete location information;

26 D. ~~Not May not~~ communicate by postcard;

28 E. ~~Not May not~~ use any language or symbol on any envelope
30 or in the contents of any communication effected by the
mails or telegram that indicates that the debt collector is
32 in the debt collection business or that the communication
relates to the collection of a debt; and

34 F. After the debt collector knows the consumer is
36 represented by an attorney with regard to the subject debt
and has knowledge of, or can readily ascertain, that
38 attorney's name and address, may not communicate with any
person other than that attorney, unless the attorney fails
40 to respond within a reasonable period of time to
communication from the debt collector. The debt collector
42 may not communicate directly with the debtor, except through
proper legal action, after notification from the debtor's
44 attorney, financial counseling organization or other person
representing the debtor that all further communication
46 relative to the debt must be addressed to the attorney,
organization or other person unless the attorney,
48 organization or other person fails to answer correspondence,
return phone calls or discuss the debt within 10 days,
50 unless prior approval is obtained from the attorney,

2 organization or other person or unless the communication is
3 a response in the ordinary course of business to the
4 debtor's inquiry;

6 G. May not communicate with the debtor through the use of
7 forms or instruments that simulate the form and appearance
8 of judicial process or that give the appearance of being
9 authorized, issued or approved by a government, governmental
10 agency or attorney-at-law;

12 H. May not make any material false representation or
13 implication of the character, extent or amount of the debt
14 or of its status in any legal proceeding;

16 I. May not make any representation that an existing
17 obligation may be increased by the addition of attorney's
18 fees, investigation fees, service fees or any other fees or
19 charges when in fact the fees or charges may not be legally
20 added to the existing obligation;

22 J. May not make any representation that an existing
23 obligation will definitely be increased by the addition of
24 attorney's fees, investigation fees, service fees or any
25 other fees or charges when the award of the fee or charge is
26 discretionary by a court of law;

28 K. May not collect or attempt to collect any interest or
29 other charge, fee or expense incidental to the principal
30 obligation unless the interest or incidental fee, charge or
31 expense is expressly authorized by the agreement creating
32 the obligation and legally chargeable to the debtor, except
33 that this paragraph does not prohibit a debt collector from
34 attempting to collect court costs in a judicial proceeding;

36 L. May not threaten that nonpayment of a debt might result
37 in the arrest of any person or the seizure, garnishment,
38 attachment or sale of any property or wages without
39 indicating, when a court order is a legal prerequisite to
40 any such action, that a court order must be in effect
41 permitting the action and, when applicable, that the debtor
42 has an opportunity to appear in court to contest such an
43 action prior to any such court order becoming effective; and

44 M. May not threaten to assign or sell to another the
45 account of or a claim against the debtor with representation
46 or implication that the result of any sale or assignment is
47 that the debtor loses any defense to the debt or is subject
48 to harsh, vindictive or abusive collection attempts.

50 **Sec. 2. 32 MRSA §11012, sub-§1, ¶A, as enacted by PL 1985, c.**
702, §2, is amended to read:

2 A. At any unusual time or place or a time or place known or
4 which that should be known to be inconvenient to the
6 consumer. In the absence of knowledge of circumstances to
8 the contrary, a debt collector shall assume that the
convenient time for communicating with a consumer is after 8
a.m. and before 9 p.m., local time at the consumer's
location, Monday to Saturday with Sunday excluded;

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SUMMARY

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This bill amends the laws governing debt collection
14 activities by prohibiting a debt collector from contacting a
debtor under the following circumstances:

16

1. When the debtor is represented by an attorney;

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2. By using forms that give the appearance of judicial
20 process;

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3. By indicating that an obligation may be increased by
attorney's fees;

24

4. By collecting interest unless approved by a court order;

26

5. By indicating that nonpayment of the debt will result in
28 arrest; and

30

6. By attempting to collect the debt by abusive collection
32 techniques.

34

The bill also specifies the days a debt collector may call a
consumer.