CHAPTER 109-A

MAINE FAIR DEBT COLLECTION PRACTICES ACT

SUBCHAPTER 1

GENERAL PROVISIONS

§11001. Short title

This chapter shall be known and may be cited as the "Maine Fair Debt Collection Practices Act." [PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW).

§11002. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1985, c. 702, §2 (NEW).]

1. Communication. "Communication" means the conveyance or receipt of information regarding or facilitating the collection of a debt, directly or indirectly, to or from any person through any medium. [PL 1985, c. 702, §2 (NEW).]

1-A. Collection action. "Collection action" means a lawsuit or arbitration proceeding initiated to collect a debt from a consumer.
[PL 2015, c. 272, §1 (NEW).]

1-B. Charge-off. "Charge-off" means the act of a creditor removing an account from its books as an asset and treating it as a loss or expense because payment is unlikely.
[PL 2017, c. 216, §2 (NEW); PL 2017, c. 216, §11 (AFF).]

2. Conducting business in this State. "Conducting business in this State" means the collection or attempted collection of a debt due another by a debt collector located in this State; the solicitation of creditors in this State as clients and the collection or attempted collection of their debts by a debt collector, wherever located; or the collection or attempted collection of a debt from a consumer in this State by a debt collector, wherever located.
[PL 2017, c. 317, §1 (AMD).]

3. Consumer. "Consumer" means any natural person obligated or allegedly obligated to pay any debt.
[PL 1985, c. 702, §2 (NEW).]

4. Creditor. "Creditor" means any person who offers or extends credit creating a debt or to whom a debt is owed, but that term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of that debt for another. [PL 1985, c. 702, §2 (NEW).]

5. Debt. "Debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services that are the subject of the transaction are primarily for personal, family or household purposes, whether or not the obligation has been reduced to judgment. "Debt" includes any obligation or alleged obligation for payment of child support owed to, or owed by, a resident of this State and any obligation or alleged obligation relating

to a check returned because of insufficient funds if a consumer is subject to an enforcement program operated by a private entity.
[PL 2007, c. 214, §1 (AMD).]

5-A. Debt buyer. "Debt buyer" means a person that is regularly engaged in the business of purchasing charged-off consumer debt for collection purposes, whether the person collects the debt or hires a 3rd party, which may include an attorney-at-law, in order to collect the debt. "Debt buyer" does not include a supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A or a person that acquires charged-off consumer debt incidental to the purchase of a portfolio predominantly consisting of consumer debt that has not been charged off. A debt buyer is considered a debt collector for all purposes under this chapter.
[PL 2017, c. 216, §3 (NEW); PL 2017, c. 216, §11 (AFF).]

6. Debt collector. "Debt collector" means any person conducting business in this State, the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. "Debt collector" includes persons who furnish collection systems carrying a name that simulates the name of a debt collector and who supply forms or form letters to be used by the creditor even though the forms direct the debtor to make payments directly to the creditor. Notwithstanding the exclusion provided by section 11003, subsection 7, "debt collector" includes any creditor who, in the process of collecting the creditor's own debts, uses any name other than the creditor's that would indicate that a 3rd person is collecting or attempting to collect these debts. "Debt collector" includes any attorney-at-law whose principal activities include collecting debts as an attorney on behalf of and in the name of clients, except that any such attorney licensed to practice law in this State is subject exclusively to subchapter 2 and any such attorney not licensed to practice law in this State is subject to this entire chapter. "Debt collector" also includes any person regularly engaged in the enforcement of security interests securing debts, including a repossession company and a residential real estate property preservation provider. "Debt collector" does not include any person who retrieves collateral when a consumer has voluntarily surrendered possession. A person is regularly engaged in the enforcement of security interests if that person enforced security interests more than 5 times in the previous calendar year. If a person does not meet these numerical standards for the previous calendar year, the numerical standards must be applied to the current calendar year.
[PL 2013, c. 521, Pt. E, §1 (AMD).]

7. Location information. "Location information" means a consumer's place of abode and his telephone number at that place or his place of employment.
[PL 1985, c. 702, §2 (NEW).]

7-A. Medical debt. "Medical debt" means debt arising from health care services, including dental services, or health care goods, including products, devices, durable medical equipment and prescription drugs. "Medical debt" does not include debt arising from services provided by a veterinarian; debt charged to a credit card unless the credit card is issued under an open-end or closed-end credit plan offered solely for the payment of health care services; debt charged to a home equity or general purpose line of credit; or secured debt.
[PL 2023, c. 663, §1 (NEW).]

8. Person. "Person" means any natural person, corporation, trust, partnership, incorporated or unincorporated association and any other legal entity.
[PL 1985, c. 702, §2 (NEW).]

8-A. Residential real estate property preservation provider. "Residential real estate property preservation provider" means a person who regularly provides residential real estate property preservation services. "Residential real estate property preservation provider" does not include a supervised financial organization, a supervised lender, a person licensed by the Plumbers' Examining

Board, a person licensed by the Electricians' Examining Board, a person licensed by the Department of Professional and Financial Regulation under chapter 131, a person licensed by the Maine Fuel Board or a person licensed by the Real Estate Commission.
[PL 2013, c. 521, Pt. E, §2 (NEW).]

8-B. Residential real estate property preservation services. "Residential real estate property preservation services" means those services undertaken at the direction of a person holding or enforcing a mortgage on residential real estate that is in default or in which the property is presumed abandoned in entering or arranging for entry into a building to perform the services of winterizing the residence, changing the door locks or removing unsecured items from the residence.
[PL 2013, c. 521, Pt. E, §2 (NEW).]

8-C. Resolved debt. "Resolved debt" means a debt that has been paid, settled or discharged in bankruptcy.
[PL 2017, c. 216, §4 (NEW); PL 2017, c. 216, §11 (AFF).]

9. Administrator. "Administrator" means the Superintendent of Consumer Credit Protection.
[PL 1995, c. 309, §22 (RPR); PL 1995, c. 309, §29 (AFF); PL 2007, c. 273, Pt. B, §6 (REV); PL 2007, c. 695, Pt. A, §47 (AFF).]

10. Supervised financial organization. "Supervised financial organization" has the same meaning as defined in Title 9-A, section 1-301, subsection 38-A.
[PL 1997, c. 66, §8 (AMD).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW). PL 1993, c. 126, §1 (AMD). PL 1995, c. 309, §§22,23 (AMD). PL 1995, c. 309, §29 (AFF). PL 1995, c. 397, §101 (AMD). PL 1997, c. 66, §8 (AMD). PL 1999, c. 184, §20 (AMD). PL 2003, c. 562, §2 (AMD). PL 2005, c. 475, §1 (AMD). PL 2007, c. 214, §1 (AMD). PL 2007, c. 273, Pt. B, §6 (REV). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 695, Pt. A, §47 (AFF). PL 2013, c. 521, Pt. E, §§1, 2 (AMD). PL 2015, c. 272, §1 (AMD). PL 2017, c. 216, §§2-4 (AMD). PL 2017, c. 216, §11 (AFF). PL 2017, c. 317, §1 (AMD). PL 2023, c. 663, §1 (AMD).

§11003. Exclusions

The term debt collector does not include: [PL 1985, c. 702, §2 (NEW).]

1. Officers or employees of a creditor. Any officer or employee of a creditor while, in the name of the creditor, collecting debts for that creditor;
[PL 1985, c. 702, §2 (NEW).]

2. Persons related by common ownership or affiliated by corporate control. Any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of that person is not the collection of debts;
[PL 1985, c. 702, §2 (NEW).]

3. Officers or employees of the United States or any state. Any officer or employee of the United States or any state or agencies or instrumentalities of the State to the extent that collecting or attempting to collect any debt is in the performance of his official duties;
[PL 1985, c. 702, §2 (NEW).]

4. Persons serving legal process. Any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;
[PL 1985, c. 702, §2 (NEW).]

5. Nonprofit organizations performing consumer credit counseling. Any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and

assists consumers in the liquidation of their debts by receiving payments from those consumers and distributing those amounts to creditors;
[PL 1985, c. 702, §2 (NEW).]

6. Attorneys-at-law collecting debts on behalf of a client.
[PL 1993, c. 126, §2 (RP).]

7. Persons collecting debts owed or due to another. Any person collecting or attempting to collect any debt owed or due, or asserted to be owed or due, to another to the extent that the activity:

A. Is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement; [PL 1985, c. 702, §2 (NEW).]

B. Concerns a debt which was originated by that person; [PL 1985, c. 702, §2 (NEW).]

C. Concerns a debt which was not in default at the time it was obtained by that person; or [PL 1985, c. 702, §2 (NEW).]

D. Concerns a debt obtained by that person as a secured party in a commercial credit transaction involving the creditor; [PL 2009, c. 99, §1 (AMD).]
[PL 2009, c. 99, §1 (AMD).]

8. Collection activities related to the operation of a business. Any person whose collection activities are confined to and directly related to the operation of a business other than that of a debt collector, such as, but not limited to, financial institutions regulated under Title 9-B; and
[PL 2009, c. 99, §2 (AMD).]

9. Certain pretrial diversion programs for issuers of worthless checks. A private entity operating a worthless check enforcement program that meets the conditions set forth in section 11013-A, subsection 3.
[PL 2009, c. 99, §3 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW). PL 1993, c. 126, §2 (AMD). PL 2009, c. 99, §§1-3 (AMD).

SUBCHAPTER 2

DEBT COLLECTION ACTIVITIES

§11011. Acquisition of location information

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

A. Identify himself; state that he is confirming or correcting location information concerning the consumer; and, only if expressly requested, identify his employer; [PL 1985, c. 702, §2 (NEW).]

B. Not state that the consumer owes any debt; [PL 1985, c. 702, §2 (NEW).]

C. Not communicate with any such person more than once, unless requested to do so by that person or unless the debt collector reasonably believes that the earlier response of that person is erroneous or incomplete and that the person now has correct or complete location information; [PL 1985, c. 702, §2 (NEW).]

D. Not communicate by postcard; [PL 1985, c. 702, §2 (NEW).]

E. Not use any language or symbol on any envelope or in the contents of any communication effected by the mails or telegram that indicates that the debt collector is in the debt collection

business or that the communication relates to the collection of a debt; and [PL 1985, c. 702, §2 (NEW).]

F. After the debt collector knows the consumer is represented by an attorney with regard to the subject debt and has knowledge of, or can readily ascertain, that attorney's name and address, not communicate with any person other than that attorney, unless the attorney fails to respond within a reasonable period of time to communication from the debt collector. [PL 1985, c. 702, §2 (NEW).]

[PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW).

§11012. Communication in connection with debt collection

1. Communication with the consumer generally. Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt:

A. At any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to 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; [PL 1985, c. 702, §2 (NEW).]

B. If the debt collector knows that the consumer is represented by an attorney with respect to that debt and has knowledge of, or can readily ascertain, that attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer; or [PL 1985, c. 702, §2 (NEW).]

C. At the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving a communication. [PL 1985, c. 702, §2 (NEW).]

[PL 1985, c. 702, §2 (NEW).]

2. Communication with 3rd parties. Except as provided in section 11011, without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a post-judgment judicial remedy, a debt collector shall not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor or the attorney of the debt collector.

[PL 1985, c. 702, §2 (NEW).]

3. Ceasing communication. If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to that debt, except:

A. To advise the consumer that the debt collector's further efforts are being terminated; [PL 1985, c. 702, §2 (NEW).]

B. To notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by the debt collector or creditor; or [PL 1985, c. 702, §2 (NEW).]

C. Where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy. [PL 1985, c. 702, §2 (NEW).]

If the notice from the consumer is made by mail, notification shall be complete upon receipt.

[PL 1985, c. 702, §2 (NEW).]

4. Consumer defined. For the purpose of this section, the term consumer includes the consumer's spouse; parent, if the consumer is a minor; guardian; executor; or administrator.
[PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW).

§11013. Prohibited practices

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Harassment or abuse. A debt collector may not engage in any conduct, the natural consequence of which is to harass, oppress or abuse any person in connection with the collection of a debt. Without limiting the general application of this subsection, the following conduct is a violation of this section:

A. The use or threat of use of violence or other criminal means to harm the physical person, reputation or property of any person; [PL 1985, c. 702, §2 (NEW).]

B. The use of obscene or profane language, or language the natural consequence of which is to abuse the hearer or reader; [PL 1985, c. 702, §2 (NEW).]

C. The publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency or to persons meeting the requirements of Title 10, chapter 209-B; [PL 2013, c. 588, Pt. C, §16 (AMD).]

D. The advertisement for sale of any debt to coerce payment of the debt; [PL 1985, c. 702, §2 (NEW).]

E. Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse or harass any person at the called number; [PL 1985, c. 702, §2 (NEW).]

F. Except as provided in section 11011, the placement of telephone calls without meaningful disclosure of the caller's identity; and [PL 1985, c. 702, §2 (NEW).]

G. The use of "shame cards," "shame automobiles" or similar devices. [PL 1985, c. 702, §2 (NEW).]
[PL 2013, c. 588, Pt. C, §16 (AMD).]

2. False or misleading representations. A debt collector may not use any false, deceptive or misleading representation or means in connection with the collection of any debt. Without limiting the general application of this subsection, the following conduct is a violation of this section:

A. The false representation or implication that the debt collector is vouched for, bonded by or affiliated with the United States or any state, including the use of any badge, uniform, seal, insignia or facsimile; [PL 1985, c. 702, §2 (NEW).]

B. The false representation of:

(1) The character, amount or legal status of any debt; or

(2) Any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt; [PL 1985, c. 702, §2 (NEW).]

C. The false representation or implication that any individual is an attorney or that any communication is from an attorney; [PL 1985, c. 702, §2 (NEW).]

D. The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment or sale of any property or

wages of any person, unless that action is lawful and the debt collector or creditor intends to take that action; [PL 1985, c. 702, §2 (NEW).]

E. The threat to take any action that may not legally be taken or that is not intended to be taken; [PL 1985, c. 702, §2 (NEW).]

F. The false representation or implication that a sale, referral or other transfer of any interest in a debt shall cause the consumer to:

(1) Lose any claim or defense to payment of the debt; or

(2) Become subject to any practice prohibited by this Act or the Maine Consumer Credit Code, Title 9-A; [PL 1985, c. 702, §2 (NEW).]

G. The false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer; [PL 1985, c. 702, §2 (NEW).]

H. Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed; [PL 1985, c. 702, §2 (NEW).]

I. The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued or approved by any court, official or agency of the United States or any state, or which creates a false impression as to its source, authorization or approval; [PL 1985, c. 702, §2 (NEW).]

J. The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer; [PL 1985, c. 702, §2 (NEW).]

K. [PL 1997, c. 155, Pt. D, §1 (RP).]

K-1. The failure to disclose in the initial written communication with the consumer and, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph does not apply to a formal pleading made in connection with a legal action; [PL 1997, c. 155, Pt. D, §2 (NEW).]

L. The false representation or implication that accounts have been turned over to innocent purchasers for value; [PL 1985, c. 702, §2 (NEW).]

M. The false representation or implication that documents are legal process; [PL 1985, c. 702, §2 (NEW).]

N. The use of any business, company or organization name other than the true name of the debt collector's business, company or organization; [PL 1985, c. 702, §2 (NEW).]

O. The false representation or implication that documents are not legal process forms or do not require action by the consumer; [PL 2023, c. 663, §2 (AMD).]

P. The false representation or implication that a debt collector operates or is employed by a consumer reporting agency, as defined by Title 10, section 1308, subsection 3; [PL 2023, c. 663, §3 (AMD).]

Q. The false, deceptive or misleading representation or implication that interest will accumulate on the debt principal when the debt collector or collection agency is attempting to collect debt that the debt collector or collection agency knows is medical debt or to obtain information about a consumer in relation to an attempt to collect medical debt; [PL 2023, c. 663, §4 (NEW).]

R. The false, deceptive or misleading representation or implication that a fee will be charged in connection with the debt when the debt collector or collection agency is attempting to collect debt

that the debt collector or collection agency knows is medical debt or to obtain information about a consumer in relation to an attempt to collect medical debt; or [PL 2023, c. 663, §5 (NEW).]

S. The false, deceptive or misleading representation or implication that the debt collector or collection agency will pursue litigation to compel payment of the debt when attempting to collect debt that the debt collector or collection agency knows is medical debt or to obtain information about a consumer in relation to an attempt to collect medical debt. [PL 2023, c. 663, §6 (NEW).]

[PL 2023, c. 663, §§2-6 (AMD).]

3. Unfair practices. A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of this subsection, the following conduct is a violation of this section:

A. The collection of any amount, including any interest, fee, charge or expense incidental to the principal obligation, unless the amount is expressly authorized by the agreement creating the debt or permitted by law; [PL 1985, c. 702, §2 (NEW).]

B. The acceptance by a debt collector from any person of a check or other payment instrument postdated by more than 5 days, unless that person is notified in writing of the debt collector's intent to deposit that check or instrument not more than 10 nor less than 3 business days prior to the deposit; [PL 1985, c. 702, §2 (NEW).]

C. The solicitation by a debt collector of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution; [PL 1985, c. 702, §2 (NEW).]

D. Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on the check or instrument; [PL 1985, c. 702, §2 (NEW).]

E. Causing charges to be made to any person for communications by concealment of the true purpose of the communication. These charges include, but are not limited to, collect telephone calls and telegram fees; [PL 1985, c. 702, §2 (NEW).]

F. Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if:

(1) There is no present right to possession of the property claimed as collateral through an enforceable security interest;

(2) There is no present intention to take possession of the property; or

(3) The property is exempt by law from the dispossession or disablement; [PL 1985, c. 702, §2 (NEW).]

G. Communicating with a consumer regarding a debt by postcard; [PL 1985, c. 702, §2 (NEW).]

H. Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if that name does not indicate that he is in the debt collection business; [PL 1985, c. 702, §2 (NEW).]

I. Using or employing notaries public, constables, sheriffs or any other officer authorized to serve legal papers in the collection of a claim; [PL 1985, c. 702, §2 (NEW).]

J. Exercising 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 debt collector's course of conduct is at all times consistent with the true relationship of attorney and client between the lawyer and the creditor, such that the debt collector will not demand or obtain in any manner a share of the compensation for services performed by a lawyer in collecting a claim; [PL 1985, c. 702, §2 (NEW).]

K. Failing 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 debt collector, or refusing or intentionally failing to account to its clients for all money collected within 30 days from the last day of the month in which the money is collected or refusing, or intentionally failing, to return to the creditor all valuable papers deposited with a claim when that claim is returned; [PL 1985, c. 702, §2 (NEW).]

L. Commingling money collected for a creditor with the debt collector's own funds or using any part of a creditor's money in the conduct of the debt collector's business; [PL 1985, c. 702, §2 (NEW).]

M. Engaging in the business of lending money to any person or contacting any person for the purpose of securing a loan for any person with which to pay any claim left with it for collection, or recommending any person or persons as a source of funds to pay any such claim; [PL 2023, c. 663, §7 (AMD).]

N. Threatening to bring legal action in the debt collector's own name or instituting a suit on behalf of others or furnishing legal advice, except that a debt collector who is also an attorney may bring an action under this paragraph in the name of the creditor in any division or county permitted by 15 United States Code, Section 1692i and may furnish legal advice to the creditor with respect to a debt; [PL 2023, c. 663, §8 (AMD).]

O. Notwithstanding paragraph A, charging any interest on debt that the debt collector knows is medical debt; [PL 2023, c. 663, §9 (NEW).]

P. Notwithstanding paragraph A, charging any fee in connection with the collection of debt that the debt collector knows is medical debt; or [PL 2023, c. 663, §10 (NEW).]

Q. Pursuing litigation to compel payment of medical debt without providing proof that the consumer was sent a written notice indicating that litigation may not be pursued when the debt collector or collection agency knows the consumer's household income is not more than 300% of the federal poverty guidelines, as defined by the federal Office of Management and Budget and revised annually, and the debt collector or collection agency provided the consumer with at least 30 days to provide evidence that the consumer's household income is not more than 300% of the federal poverty guidelines. [PL 2023, c. 663, §11 (NEW).]

[PL 2023, c. 663, §§7-11 (AMD).]

4. Reporting to consumer reporting agency. A debt collector may not report solely in its own name any credit or debt information to a consumer reporting agency, as defined by Title 10, section 1308, subsection 3.

[PL 2013, c. 588, Pt. C, §18 (AMD).]

5. Reporting certain unpaid medical expenses; court or administrative orders. A debt collector may not report to a consumer reporting agency any credit or debt information regarding overdue medical expenses owed by a parent for a minor child if the debt collector is notified orally or in writing of the existence of a court order or administrative order identifying another person as the party responsible for payment of medical expenses for that minor child. In addition, a report may not be made until after the debt collector has notified, or made a good faith effort to notify, the responsible party of that party's obligation to pay the overdue medical expenses. The debt collector may request reasonable verification of the order, including requesting a certified copy of the order.

[PL 1993, c. 365, §2 (NEW).]

6. Written requirement for payment schedule or settlement agreement. A debt collector may not enter into a payment schedule or settlement agreement regarding a debt unless the payment schedule or settlement agreement is either documented in open court, approved by the court and included in a court order or otherwise reduced to writing. If a payment schedule or settlement agreement is not

included in a court order, the debt collector shall provide a written copy of the payment schedule or settlement agreement to the consumer within 10 business days of entering into the payment schedule or settlement agreement and the consumer need not make a payment on the payment schedule or settlement agreement until the written copy has been provided in accordance with this subsection.
[PL 2015, c. 272, §2 (NEW).]

7. Acting on time-barred debt. A debt collector may not initiate a collection action when the debt collector knows or reasonably should know that the collection action is barred by the limitations period as set forth in subsection 8.
[PL 2015, c. 272, §2 (NEW).]

8. Limitations period for debt collectors. A debt collector may not commence a collection action more than 6 years after the date of the consumer's last activity on the debt. This limitations period applies notwithstanding any other applicable statute of limitations, unless a shorter limitations period is provided under the laws of this State. Notwithstanding any other provision of law, when the applicable limitations period expires, any subsequent payment toward, written or oral affirmation of or other activity on the debt does not revive or extend the limitations period.
[PL 2015, c. 272, §2 (NEW).]

9. Required information. A debt buyer may not collect or attempt to collect a debt unless the debt buyer possesses the following:

A. The name of the owner of the debt; [PL 2017, c. 216, §5 (NEW); PL 2017, c. 216, §11 (AFF).]

B. The original creditor's name at the time of the charge-off; [PL 2017, c. 216, §5 (NEW); PL 2017, c. 216, §11 (AFF).]

C. The original creditor's account number used to identify the debt at the time of the charge-off, if the original creditor used an account number to identify the debt at the time of charge-off; [PL 2017, c. 216, §5 (NEW); PL 2017, c. 216, §11 (AFF).]

D. The amount due at charge-off; [PL 2017, c. 318, §1 (AMD).]

E. An itemization of interest and fees, if any, incurred after charge-off claimed to be owed and whether those were imposed by the original creditor or any subsequent owners of the debt; [PL 2017, c. 216, §5 (NEW); PL 2017, c. 216, §11 (AFF).]

F. If the debt is not from a revolving credit account, the date that the debt was incurred or the date of the last charge billed to the consumer's account for goods or services received. In the case of debt from a revolving credit account, the debt buyer must possess the date of the last extension of credit for the purchase of goods or services, for the lease of goods or as a loan of money; [PL 2017, c. 216, §5 (NEW); PL 2017, c. 216, §11 (AFF).]

G. The date and amount of the last payment, if applicable; [PL 2017, c. 216, §5 (NEW); PL 2017, c. 216, §11 (AFF).]

H. The names of all persons or entities that owned the debt after the time of the charge-off, if applicable, and the date of each sale or transfer; [PL 2017, c. 216, §5 (NEW); PL 2017, c. 216, §11 (AFF).]

I. Documentation establishing that the debt buyer is the owner of the specific debt at issue. If the debt was assigned more than once, the debt buyer must possess each assignment or other writing evidencing the transfer of ownership to establish an unbroken chain of ownership, beginning with the original creditor to the first debt buyer and each subsequent debt buyer; and [PL 2017, c. 216, §5 (NEW); PL 2017, c. 216, §11 (AFF).]

J. A copy of the contract, application or other documents evidencing the consumer's liability for the debt. If a signed writing evidencing the original debt does not exist, the debt buyer must possess

a copy of a document provided to the consumer before charge-off demonstrating that the debt was incurred by the consumer or, for a revolving credit account, the most recent monthly statement recording the extension of credit for the purchase of goods or services, for the lease of goods or as a loan of money. [PL 2017, c. 216, §5 (NEW); PL 2017, c. 216, §11 (AFF).]

[PL 2017, c. 318, §1 (AMD).]

10. Transfer of ownership of certain debts. A debt buyer may not sell or otherwise transfer ownership of:

A. A debt without the information and documentation required pursuant to subsection 9; or [PL 2017, c. 216, §5 (NEW); PL 2017, c. 216, §11 (AFF).]

B. A resolved debt, an interest in a resolved debt or any financial information relating to a resolved debt. [PL 2017, c. 216, §5 (NEW); PL 2017, c. 216, §11 (AFF).]

[PL 2017, c. 216, §5 (NEW); PL 2017, c. 216, §11 (AFF).]

11. (TEXT EFFECTIVE UNTIL 7/01/26) Collection action prohibited on debt from medical expenses if eligible for free or charity care. If a debt collector has been notified, orally or in writing, by a creditor or the consumer of the consumer's actual or potential qualification for free or charity care under guidelines adopted pursuant to Title 22, section 1716, a debt collector may not collect or attempt to collect a debt for medical expenses against a consumer who has been determined to be qualified for free or charity care under guidelines adopted pursuant to Title 22, section 1716 or against a consumer who would have been determined to be qualified for free or charity care under guidelines adopted pursuant to Title 22, section 1716 but did not apply for good cause. If the notification is provided to a debt collector, the debt collector shall suspend collection efforts until the creditor has notified the debt collector and the consumer that the consumer is not qualified for free or charity care and, in that case, the debt collector may renew debt collection efforts.

[PL 2021, c. 245, Pt. E, §1 (NEW).]

11. (TEXT EFFECTIVE 7/01/26) Collection action prohibited on debt from medical expenses if eligible for charity care. If a debt collector has been notified, orally or in writing, by a creditor or the consumer of the consumer's actual or potential qualification for charity care under Title 22, section 1716-A, a debt collector may not collect or attempt to collect a debt for medical expenses against a consumer who has been determined to be qualified for charity care under Title 22, section 1716-A or against a consumer who would have been determined to be qualified for charity care under Title 22, section 1716-A but did not apply for good cause. If the notification is provided to a debt collector, the debt collector shall suspend collection efforts until the creditor has notified the debt collector and the consumer that the consumer is not qualified for charity care and, in that case, the debt collector may renew debt collection efforts.

[PL 2025, c. 488, §5 (AMD); PL 2025, c. 488, §8 (AFF).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW). PL 1991, c. 453, §8 (AMD). PL 1991, c. 453, §10 (AFF). PL 1993, c. 365, §2 (AMD). PL 1997, c. 155, §§D1, 2 (AMD). PL 2009, c. 245, §8 (AMD). PL 2013, c. 588, Pt. C, §§16-18 (AMD). PL 2015, c. 272, §2 (AMD). PL 2017, c. 216, §5 (AMD). PL 2017, c. 216, §11 (AFF). PL 2017, c. 318, §1 (AMD). PL 2021, c. 245, Pt. E, §1 (AMD). PL 2023, c. 663, §§2-11 (AMD). PL 2025, c. 488, §5 (AMD). PL 2025, c. 488, §8 (AFF).

§11013-A. Exception for certain pretrial diversion programs for issuers of worthless checks operated by private entities

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Check" has the same meaning as in Title 14, section 6071, subsection 4. [PL 2009, c. 99, §4 (NEW).]

B. "State or district attorney" means the chief elected or appointed prosecuting attorney in a district, county, municipality or comparable jurisdiction, including the Attorney General acting as chief elected or appointed prosecuting attorney in a district, county, municipality or comparable jurisdiction, who is responsible for the prosecution of state crimes and violations of jurisdiction-specific local ordinances. [PL 2009, c. 99, §4 (NEW).]

C. "Worthless check violation" means a violation of Title 17-A, section 708, subsection 1, paragraph A. [PL 2009, c. 99, §4 (NEW).]

[PL 2009, c. 99, §4 (NEW).]

2. Pretrial diversion program for issuers of worthless checks. If a state or district attorney wants to be excluded from consideration as a debt collector as provided in section 11003, subsection 9, that state or district attorney shall establish, within the jurisdiction of that state or district attorney and with respect to alleged worthless check violations that do not involve a check described in subsection 4, a pretrial diversion program for issuers of worthless checks who agree to participate voluntarily in that program to avoid criminal prosecution.

[PL 2009, c. 99, §4 (NEW).]

3. Conditions for exception. A private entity operating a pretrial diversion program for issuers of worthless checks that meets the following requirements is excluded from being considered a debt collector.

A. The private entity must operate the pretrial diversion program for issuers of worthless checks described in subsection 2 subject to an administrative support services contract with the state or district attorney and under the direction, supervision and control of that state or district attorney. [PL 2009, c. 99, §4 (NEW).]

B. In the course of performing duties delegated to it by a state or district attorney under an administrative support services contract, the private entity referred to in paragraph A:

(1) Shall comply with the criminal laws of the State;

(2) Shall conform with the terms of the administrative support services contract and directives of the state or district attorney;

(3) May not exercise independent prosecutorial discretion;

(4) Shall contact any issuer of an alleged worthless check for the purposes of participating in a pretrial diversion program for issuers of worthless checks as described in subsection 2:

(a) Only as a result of a determination by the state or district attorney that probable cause of a worthless check violation under state criminal law exists, and that contact with the issuer of an alleged worthless check for purposes of participation in the program is appropriate; and

(b) Only if the issuer of an alleged worthless check has failed to pay the worthless check after demand for payment is made for the check amount pursuant to state law;

(5) Shall include as part of an initial written communication with an issuer of an alleged worthless check a clear and conspicuous statement that:

(a) The issuer of an alleged worthless check may dispute the validity of any alleged worthless check violation;

(b) When the issuer of an alleged worthless check knows, or has reasonable cause to believe, that the alleged worthless check violation is the result of theft or forgery of the check, identity theft or other fraud that is not the result of the conduct of the issuer of an alleged worthless check, the issuer of the alleged worthless check may file a crime report with the appropriate law enforcement agency; and

(c) If the issuer of an alleged worthless check notifies the private entity or the state or district attorney in writing, not later than 30 days after being contacted for the first time pursuant to subparagraph (4), that there is a dispute pursuant to this subsection, before further restitution efforts are pursued, the state or district attorney or an employee of that state or district attorney must make a determination that there is probable cause to believe that a crime has been committed; and

(6) May charge fees only in connection with services under the administrative support services contract under paragraph A that have been authorized by the contract with the state or district attorney. [PL 2009, c. 99, §4 (NEW).]

[PL 2009, c. 99, §4 (NEW).]

4. Certain checks excluded. A check described in this subsection is not considered a worthless check eligible for the pretrial diversion program for issuers of worthless checks described in subsection 2 if the check involves or is subsequently found to involve:

A. A postdated check presented in connection with a payday loan or other similar transaction when the payee of the check knew that the issuer had insufficient funds at the time the check was made, drawn or delivered; [PL 2009, c. 99, §4 (NEW).]

B. A stop payment order when the issuer acted in good faith and with reasonable cause in stopping payment on the check; [PL 2009, c. 99, §4 (NEW).]

C. A check dishonored because of an adjustment to the issuer's account by the financial institution holding that account without providing notice to the person at the time the check was made, drawn or delivered; [PL 2009, c. 99, §4 (NEW).]

D. A check for partial payment of a debt where the payee had previously accepted partial payment for that debt; [PL 2009, c. 99, §4 (NEW).]

E. A check issued by a person who was not competent or was not of legal age to enter into a legal contractual obligation at the time the check was made, drawn or delivered; [PL 2009, c. 99, §4 (NEW).]

F. A check issued to pay an obligation arising from a transaction that was illegal in the jurisdiction of the state or district attorney at the time the check was made, drawn or delivered; or [PL 2009, c. 99, §4 (NEW).]

G. A check that is the result of theft or forgery of the check, identity theft or other fraud that is not the result of the conduct of the alleged worthless check offender. [PL 2009, c. 99, §4 (NEW).]

[PL 2009, c. 99, §4 (NEW).]

5. Registration. Notwithstanding the exemptions in subsections 3 and 4, a private entity that operates a pretrial diversion program for issuers of worthless checks pursuant to this section shall register with the administrator on forms acceptable to the administrator and in a manner consistent with section 11031, subsection 2. Before granting a registration pursuant to this subsection, the administrator shall:

A. Review the administrative support services contract under subsection 3, paragraph A between the private entity and the state or district attorney; [PL 2009, c. 99, §4 (NEW).]

B. Review all form communications to issuers of alleged worthless checks that will be used as part of the pretrial diversion program for issuers of worthless checks; and [PL 2009, c. 99, §4 (NEW).]

C. Review the quality controls to be implemented by the state or district attorney and the private entity to ensure continued compliance with this section and to maintain the exemption granted in section 11003, subsection 9. [PL 2009, c. 99, §4 (NEW).]

[PL 2009, c. 99, §4 (NEW).]

6. Enforcement. To ensure compliance with this section, the administrator may receive and act on complaints in accordance with Title 9-A, section 6-104, conduct compliance examinations pursuant to Title 9-A, section 6-106 and exercise regulatory and remedial authority pursuant to Title 9-A, Article 6.

[PL 2009, c. 99, §4 (NEW).]

SECTION HISTORY

PL 2009, c. 99, §4 (NEW).

§11014. Validation of debts

1. Written notice. Within 5 days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing:

A. The amount of the debt; [PL 1985, c. 702, §2 (NEW).]

B. The name of the creditor to whom the debt is owed; [PL 1985, c. 702, §2 (NEW).]

C. A statement that unless the consumer, within 30 days after receipt of the notice, disputes the validity of the debt or any portion of the debt, the debt will be assumed to be valid by the debt collector; [PL 1985, c. 702, §2 (NEW).]

D. A statement that if the consumer notifies the debt collector in writing within the 30-day period that the debt, or any portion of the debt, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of the verification or judgment will be mailed to the consumer by the debt collector; and [PL 1985, c. 702, §2 (NEW).]

E. A statement that, upon the consumer's written request within the 30-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor. [PL 1985, c. 702, §2 (NEW).]

[PL 1985, c. 702, §2 (NEW).]

2. Cease collection. If the consumer notifies the debt collector in writing within the 30-day period described in subsection 1 that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt or any disputed portion of the debt, until the debt collector obtains verification of the debt or a copy of the judgment, or the name and address of the original creditor, and a copy of the verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.

[PL 1985, c. 702, §2 (NEW).]

2-A. Economic abuse. If the consumer provides documentation to the debt collector as set forth in Title 14, section 6001, subsection 6, paragraph H that the debt or any portion of the debt is the result of economic abuse as defined in Title 19-A, section 4002, subsection 3-B, the debt collector shall cease collection of the debt or any disputed portion of the debt owed by the consumer subjected to economic abuse.

[PL 2019, c. 407, §5 (NEW).]

3. Liability. The failure of a consumer to dispute the validity of a debt under this section may not be construed by any court as an admission of liability by the consumer.

[PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW). PL 2019, c. 407, §5 (AMD).

§11015. Multiple debts

If any consumer owes multiple debts and makes any single payment to any debt collector with respect to the debts, the debt collector may not apply that payment to any debt which is disputed by the consumer and, where applicable, shall apply that payment in accordance with the consumer's directions.
[PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW).

§11016. Furnishing certain deceptive forms

1. Unlawful activity. It is unlawful to design, compile and furnish any form knowing that the form would be used to create the false belief in a consumer that a person other than the creditor of the consumer is participating in the collection of or in an attempt to collect a debt the consumer allegedly owed the creditor, when in fact that person is not so participating.
[PL 1985, c. 702, §2 (NEW).]

2. Extent of liability. Any person who violates this section shall be liable to the same extent and in the same manner as a debt collector is liable under section 11054 for failure to comply with a provision of this Act.
[PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW).

§11017. Repossession activity

1. Right to take possession after default. Except in the case of a residential real estate property preservation provider, a debt collector acting on behalf of a creditor may take possession of collateral only if possession can be taken without entry into a dwelling, unless that entry has been authorized after default and without the use of force or other breach of the peace.
[PL 2013, c. 521, Pt. E, §3 (AMD).]

2. Return of private property. Except in the case of a residential real estate property preservation provider, a debt collector shall inventory any unsecured property taken with repossessed collateral and immediately notify the consumer that the property will be made available in a manner convenient to the consumer.
[PL 2013, c. 521, Pt. E, §3 (AMD).]

3. Special treatment for necessary medical device or equipment in a repossessed vehicle. A consumer who has unsecured property taken when a vehicle is repossessed pursuant to Title 29-A, section 665, subsection 6 may have that property returned by complying with this subsection.

The consumer shall notify the debt collector that:

A. Unsecured property was taken with a repossessed vehicle; [PL 2009, c. 45, §2 (NEW).]

B. The unsecured property includes a medical device or equipment necessary for health or welfare; and [PL 2009, c. 45, §2 (NEW).]

C. The consumer does not have practicable means to retrieve the medical device or equipment. [PL 2009, c. 45, §2 (NEW).]

If the consumer makes a reasonable request for the return of the medical device or equipment, the debt collector shall arrange to have the medical equipment or device promptly returned to the consumer. If the debt collector incurs expenses in actually returning the medical device or equipment to the consumer, those reasonable expenses are considered a reasonable charge incurred in realizing on a security interest in personal property, pursuant to Title 9-A, section 3-402, subsection 1, paragraph B, which may be added to the consumer's indebtedness.

[PL 2009, c. 45, §2 (NEW).]

4. Residential real estate property preservation. A residential real estate property preservation provider may enter into a dwelling only if authorized by the terms of a note, contract or mortgage. The provider may not use force or effect a breach of the peace against any person. The provider shall inventory any unsecured items removed from the dwelling and immediately notify the appropriate consumer that the unsecured items will be made available in a manner convenient to the consumer. The provider shall make a permanent record of all steps taken to preserve and secure the dwelling and shall make that record and the inventory of removed unsecured items available to the consumer upon written request.
[PL 2013, c. 521, Pt. E, §4 (NEW).]

SECTION HISTORY

PL 1993, c. 126, §3 (NEW). PL 2009, c. 45, §2 (AMD). PL 2013, c. 521, Pt. E, §§3, 4 (AMD).

§11018. Privacy of consumer financial information

A collection agency or repossession company shall comply with the provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy of Consumer Information regulations, as adopted by the Office of the Comptroller of the Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332 (2001); the Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573 (2001); the National Credit Union Administration, 12 Code of Federal Regulations, Part 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations, Part 313 (2001); or the Securities and Exchange Commission, 17 Code of Federal Regulations, Part 248 (2001), if the collection agency or repossession company is a financial institution as defined in those regulations. This section is not intended to permit the release of health care information except as permitted by Title 22, section 1711-C or Title 24-A, chapter 24. [PL 2001, c. 262, Pt. E, §4 (NEW).]

SECTION HISTORY

PL 2001, c. 262, §E4 (NEW).

§11019. Collection action by debt buyer

1. Complaint; required allegations. A debt buyer may not initiate a collection action against a consumer unless the debt buyer alleges all of the following information in the complaint:

A. The information described in section 11013, subsection 9, including that the debt buyer possesses the documentation described in section 11013, subsection 9; [PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]

B. The basis for any interest and fees described in section 11013, subsection 9; [PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]

C. The basis for the request for attorney's fees, if applicable; [PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]

D. That the debt buyer is the current owner of the debt; and [PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]

E. That the cause of action is filed within the applicable statute of limitations period. [PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]
[PL 2021, c. 245, Pt. F, §1 (AMD).]

2. Debt collection complaint; attachments. In a collection action initiated by a debt buyer, the debt buyer shall attach all of the following materials to the complaint:

A. A copy of the contract, application or other document evidencing the consumer's agreement to the debt. If a signed writing evidencing the original debt does not exist, the debt buyer shall attach a copy of a document provided to the consumer before charge-off demonstrating that the debt was incurred by the consumer or, for a revolving credit account, the most recent monthly statement recording the extension of credit for the purchase of goods or services, for the lease of goods or as a loan of money or the last payment or balance transfer; and [PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]

B. A copy of the bill of sale or other writing establishing that the debt buyer is the owner of the debt. If the debt was assigned more than once, the debt buyer shall attach each assignment or other writing evidencing the transfer of ownership to establish an unbroken chain of ownership, beginning with the original creditor to the first debt buyer and each subsequent debt buyer. [PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]

[PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]

3. Requirements for judgment. Regardless of whether the consumer appears in the action, the court may not enter a judgment in favor of a debt buyer in a collection action against a consumer, including an action brought in small claims court pursuant to Title 14, chapter 738, unless the debt buyer files with the court:

A. A copy admissible under the Maine Rules of Evidence of the contract, application or other writing establishing the consumer's agreement to the debt and any contract interest or fees alleged to be owed. If a signed writing evidencing the original debt does not exist, the debt buyer must file a copy of a document provided to the consumer before charge-off demonstrating that the debt was incurred by the consumer or, for a revolving credit account, the most recent monthly statement recording the extension of credit for the purchase of goods or services, for the lease of goods or as a loan of money or the last payment or balance transfer; [PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]

B. Business records or other evidence admissible under the Maine Rules of Evidence to establish the amount due at charge-off; [PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]

C. A copy admissible under the Maine Rules of Evidence of each bill of sale or other writing establishing transfer of ownership of the debt from the original creditor to the debt buyer. If the debt was assigned more than once, the debt buyer must file each assignment or other writing evidencing the transfer of ownership to establish an unbroken chain of ownership, beginning with the original creditor to the first debt buyer and each subsequent debt buyer; and [PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]

D. Notwithstanding any other law, if attorney's fees are sought under contract, a copy admissible under the Maine Rules of Evidence of the contract evidencing entitlement to attorney's fees. [PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]

[PL 2017, c. 216, §6 (NEW); PL 2017, c. 216, §11 (AFF).]

SECTION HISTORY

PL 2017, c. 216, §6 (NEW). PL 2017, c. 216, §11 (AFF). PL 2021, c. 245, Pt. F, §1 (AMD).

§11020. Collection action to collect credit card and student loan debts; additional requirements for collection action

1. Applicability. This section applies to any collection action against a consumer to collect a credit card or student loan debt initiated by a debt collector.

[PL 2021, c. 245, Pt. F, §2 (NEW).]

2. Commencement of collection action. A collection action may not be commenced in small claims court pursuant to Title 14, chapter 738. A collection action is commenced upon the filing or

serving of a complaint that provides notice of the complaint in the same manner as other civil complaints and satisfies the requirements of this section.
[PL 2021, c. 245, Pt. F, §2 (NEW).]

3. Notice of complaint. In a collection action subject to this section, the debt collector shall attach to the front of the complaint a one-page form notice to the consumer as developed by the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection. The form notice must be written in language that is plain and readily understandable by the general public and, at a minimum, must contain the following:

A. A statement that failure to answer the complaint may result in entry of judgment in the amount demanded by the debt collector; and [PL 2021, c. 245, Pt. F, §2 (NEW).]

B. A sample answer and an explanation that the consumer may fill out the form and return it to the court as the answer to the complaint. If the consumer returns the form to the court, the consumer does not need to file a more formal answer or responsive pleading. [PL 2021, c. 245, Pt. F, §2 (NEW).]

[PL 2021, c. 245, Pt. F, §2 (NEW).]

4. Entry of judgment. A court may not enter judgment unless it specifically finds that all the requirements of this section and all other applicable requirements of this chapter are met, including, but not limited to, whether the plaintiff has produced evidence that is admissible pursuant to the Maine Rules of Evidence on all required elements of its claim.
[PL 2021, c. 245, Pt. F, §2 (NEW).]

5. Default judgment. If the defendant has failed to plead or otherwise defend, the plaintiff may apply for entry of default and a default judgment. The judge overseeing the action is responsible for entering a default and a default judgment, not the clerk of the court. Regardless of whether the defendant appears in the action or the judgment is based on a proposed order concerning a settlement, the court may not enter judgment in favor of the plaintiff unless the court determines that all the requirements of this section and all other applicable requirements of this chapter are met, including, but not limited to, whether the plaintiff has produced evidence admissible pursuant to the Maine Rules of Evidence on all required elements of its claim.
[PL 2021, c. 245, Pt. F, §2 (NEW).]

6. Exclusion. This section does not apply to any collection action brought by a supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A.
[PL 2021, c. 245, Pt. F, §2 (NEW).]

7. Rules. The Supreme Judicial Court may adopt rules necessary to implement the provisions of this section.
[PL 2021, c. 245, Pt. F, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 245, Pt. F, §2 (NEW).

§11021. Collection actions prohibited in small claims court

A debt collector may not commence a collection action against a consumer to collect a debt in small claims court pursuant to Title 14, chapter 738. [PL 2021, c. 245, Pt. F, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 245, Pt. F, §3 (NEW).

SUBCHAPTER 3

LICENSING AND ADMINISTRATION

§11031. Licenses

1. Licenses required. Except as provided in this subchapter, no person may conduct the business of a debt collector in this State without a valid license issued by the superintendent.
[PL 1985, c. 702, §2 (NEW).]

2. Licenses. Each license may be renewed biennially as long as the superintendent regards the business as responsible and safe, but in all cases terminate unless renewed by the expiration date. Each license must plainly state the name and business address of the licensee and be posted in a conspicuous place in the office where the business is transacted. The superintendent may permit affiliated companies to be under a single license and subject to a single examination as long as all of the affiliated company names are listed on the license. The superintendent may adopt rules to determine what constitutes an affiliated company. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. If a licensee desires to carry on business in more than one place, the licensee shall procure a branch office license for each additional place where the business is to be conducted. The administrator may require licensing through the nationwide mortgage licensing system and registry as defined in Title 9-A, section 13-102, subsection 8. The administrator is authorized to participate in the nationwide mortgage licensing system and registry.

In all cases, whether licensing is through the nationwide mortgage licensing system and registry or otherwise, the administrator may establish, by rule, requirements for licensing, including but not limited to:

A. Background checks for:

(1) Criminal history through fingerprint or other databases;

(2) Civil or administrative records;

(3) Credit history; or

(4) Any other information determined necessary by the nationwide mortgage licensing system and registry; [PL 2021, c. 245, Pt. D, §26 (NEW).]

B. The payment of fees to apply for or renew licenses, except that the fee for an initial application may not exceed $800 and for a renewal may not exceed $500. If licensing is through the nationwide mortgage licensing system and registry, an applicant must also pay a nationwide mortgage licensing system and registry processing fee in an amount to be determined by the administrators of the nationwide mortgage licensing system and registry. Renewal applications received after the due date are subject to an additional fee of $100; [PL 2021, c. 245, Pt. D, §26 (NEW).]

C. The setting or resetting as necessary of renewal or reporting dates; and [PL 2021, c. 245, Pt. D, §26 (NEW).]

D. Other requirements for application for, amendment of or revocation of a license or any other such activities as the administrator considers necessary. [PL 2021, c. 245, Pt. D, §26 (NEW).]

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2021, c. 245, Pt. D, §26 (AMD).]

3. Applications. Applications for a license shall comply with the following requirements.

A. The superintendent may require such financial statements and references of all applicants for a license as the superintendent deems necessary; and may make or cause to be made an independent investigation concerning the applicant's reputation, integrity, competence and net worth. The investigation may cover all managerial personnel employed by or associated with the applicant. If

the applicant is a debt buyer, the superintendent shall require documentation that the debt buyer has conducted a criminal background check prior to employment on every officer or employee of the debt buyer who engages in the active collection of debt for the debt buyer or has access to consumer credit information. [PL 2017, c. 216, §7 (AMD); PL 2017, c. 216, §11 (AFF).]

B. Every application for a license shall be acted upon promptly by the superintendent. If the application complies in form and substance with this Act and the rules promulgated under this Act and the superintendent finds that the applicant is qualified under this Act, the superintendent shall issue a license forthwith. If the application is not sufficient in form or substance, the superintendent shall reject it and notify the applicant of the manner in which it is deficient. The rejection shall be without prejudice to the filing of a new application. If the superintendent finds that the applicant is not qualified under this Act, he shall reject the application and shall give the applicant written notice of the rejection and the reasons for the rejection. In addition, any foreign business, incorporated or unincorporated, before obtaining a license in order to conduct the business of a debt collector within the State shall furnish the superintendent with:

(1) A certified copy of its charter and bylaws; and

(2) A power of attorney appointing the superintendent to be the true and lawful attorney of the business in and for this State, upon whom all lawful process in an action or proceeding against the business may be served with the same effect as if the business existed in this State. The power of attorney shall stipulate and agree on the part of the business that any lawful process against the company which is served on the attorney shall be the same in legal force and validity as if served on the business itself, and that the authority shall continue in force irrevocable so long as any liability remains outstanding against the business in this State. A certificate of the appointment, duly certified and authenticated shall be filed in the office of the superintendent and a copy certified by him shall be received in evidence in all courts of this State. [PL 1985, c. 702, §2 (NEW).]

[PL 2017, c. 216, §7 (AMD); PL 2017, c. 216, §11 (AFF).]

4. Change in ownership or management. A change of 25% or more in ownership or management of any corporate licensee, or of the partners in any partnership licensee, shall require the filing of a new application under this section.

[PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW). PL 1999, c. 184, §24 (AMD). PL 2009, c. 243, §6 (AMD). PL 2017, c. 216, §7 (AMD). PL 2017, c. 216, §11 (AFF). PL 2021, c. 245, Pt. D, §26 (AMD).

§11032. Bond

The administrator shall require each licensee to file and maintain in force a surety bond, in a form prescribed by and acceptable to the administrator and in such sum as the administrator may deem reasonably necessary, to safeguard the interests of the public. The terms of the bond must run concurrent with the period of time during which the license will be in effect. The bond may be cancelled by the surety on the bond by giving 30 days' notice to the administrator, but the cancellation may not in any manner affect the liability of the surety as to anything occurring prior to the cancellation. [PL 1997, c. 727, Pt. B, §22 (AMD).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW). PL 1997, c. 727, §B22 (AMD).

§11033. Prior convictions as disqualifications

In evaluating a license application, the superintendent shall consider the criminal record of any individual applicant, of any partner, if the applicant is a partnership, of any officer or director, if the

applicant is a corporation, or of any employee of the foregoing, in accordance with Title 5, chapter 341. No license may be granted to any lawyer, whose license to practice law has been suspended or revoked, during the effective period of that suspension or revocation. [PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW).

§11034. Rulemaking

The superintendent may make such reasonable rules, not inconsistent with this chapter, pertaining to the operation of the business of licensees as he deems necessary to safeguard the interest of the public. The rules shall be adopted in the manner prescribed in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. [PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW).

§11035. Advisory rulings

The superintendent may issue advisory rulings pertaining to the applicability of any statutory provision or any rule adopted under this chapter and shall provide by rule for the filing and prompt disposition of requests for advisory rulings. [PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW).

§11036. Reports and records

1. Financial statements. The administrator may at any time require a licensee to submit to the bureau such financial statements as determined necessary for examination by the administrator so that the administrator may determine whether or not the licensee is financially responsible to carry on a debt collector's business.
[PL 1997, c. 727, Pt. B, §23 (AMD).]

2. Books and records. The superintendent shall require the licensee to keep such books and records in this State as will enable the superintendent to determine whether the provisions of this chapter are being complied with. At the superintendent's option, a licensee may keep the books and records in a location outside this State, provided that the licensee agrees to produce the books and records in this State upon demand. Every licensee shall preserve the records of final entry used in that business for a period of 2 years after final remittance is made on any account placed with the licensee for collection or after any account has been returned to the claimant on which one or more payments have been made.
[PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW). PL 1997, c. 727, §B23 (AMD).

§11037. Voluntary termination of business

1. Procedures prior to termination. Prior to voluntarily ceasing business as a debt collector, a licensee shall:

A. Notify the superintendent of the proposed termination at least 30 days prior to its effective date; [PL 1985, c. 702, §2 (NEW).]

B. Notify all creditor clients in writing of the proposed termination at least 30 days prior to its effective date; [PL 1985, c. 702, §2 (NEW).]

C. Provide all creditor clients with detailed final accountings of all debt accounts; [PL 1985, c. 702, §2 (NEW).]

D. Remit all money held in the agency trust account to each respective creditor client; [PL 1985, c. 702, §2 (NEW).]

E. Return all papers, documents and other property of creditor clients provided to the licensee in connection with its collection efforts to those clients; and [PL 1985, c. 702, §2 (NEW).]

F. Return its license to the superintendent for cancellation. [PL 1985, c. 702, §2 (NEW).]
[PL 1985, c. 702, §2 (NEW).]

2. Transfer of accounts. No licensee, when terminating its business, may transfer an account to another debt collector without first securing the written permission of the client.
[PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW).

§11038. Insolvency and liquidation

1. Insolvency. If the superintendent determines that a licensee located in this State is insolvent or that he has collected accounts but has failed to remit money due to any claimant or forwarder within 30 days from the end of the month in which collection was made or, when the license of a debt collector has expired or terminated for any reason whatsoever, the superintendent, if he determines that action necessary to protect the public interest, may apply to the Superior Court of the county in which the main office of the debt collector is located, authorizing him to take possession of the assets and the books and records of the licensee for the purpose of liquidating its business and for such other relief as the nature of the case and the interest of the claimants or forwarders may require. The court, after citing the licensee to show cause why the superintendent should not be authorized to take possession of the assets and books of accounts and records for the purpose of liquidating the business of the licensee, and, after hearing the allegations and proofs of the parties and determining the facts, may upon the merits dismiss the application or, if it finds that action necessary for the protection of the public, issue its order authorizing the superintendent to take possession of the books and records and to liquidate the business and granting such other relief as it deems necessary under the circumstances.
[PL 1985, c. 702, §2 (NEW).]

2. Powers and duties. In every case where the court issues an order authorizing the superintendent to take possession of the books and records and to liquidate the business of a licensee, the superintendent shall be vested with all of the powers, duties, authority and responsibility of a receiver, and without limiting the generality of this subsection and subject to the approval of the court.

A. The liquidation of the business shall be made by and under the supervision of the superintendent, either in the name of the superintendent or in the name of the licensee, and the superintendent or his successor shall be vested with title to all of the assets, including the proceeds of the financial security which has been filed with the superintendent and the proceeds of any and all money paid directly to the claimant or forwarder by any debtor prior to the date of the order. Money paid to the licensee or to the superintendent after the date of the order shall be disposed of by the superintendent. [PL 1985, c. 702, §2 (NEW).]

B. The superintendent for the purpose of collection or liquidation may sell, assign, convey and transfer or approve the sale, assignment, conveyance and transfer of the assets of the debt collector under such terms and conditions as the superintendent deems best for the best interests of the claimants of the debt collector. [PL 1985, c. 702, §2 (NEW).]

C. The superintendent shall cause notice to be given by advertisement in such newspapers as he may direct weekly for 4 consecutive weeks after the issue of the order authorizing him to take possession of the assets of the debt collector, calling on all persons who may have claims against the licensee to bring the claims to the superintendent and make legal proof of the claims at a place

and time to be specified. The superintendent shall mail a similar notice to all persons whose names appear as claimants or forwarders upon the books and records of the licensee or as may appear in the records of the superintendent. Any claimant or forwarder whose portion of the collections has not been properly remitted shall file a claim, which shall be allowed for the amount actually due the claimant or forwarder after deduction of a commission or fee that may be due and owing the licensee. If the superintendent doubts the justice and validity of any claim, he may reject the claim and serve notice of that rejection upon the claimant, either by mail or personally. An affidavit of service of notice, which shall be prima facie evidence of service, shall be filed with the superintendent. The claimant may, within 30 days after receipt of notice of rejection, file a petition in the court in which the proceedings are pending to establish his claim or claims. Claims presented after the expiration of the time fixed in the notice to the claimants or forwarders shall be entitled to receive only liquidating dividends declared after presentation, unless otherwise ordered by the court. The court may fix a date after which all claimants may be barred. [PL 1985, c. 702, §2 (NEW).]

D. The assets of the licensee in liquidation, exclusive of any bond proceeds, shall be disbursed in the following order:

(1) Expenses of liquidation;

(2) The full amount of claims of each claimant or forwarder of the licensee whose claim against the licensee has been approved by the superintendent;

(3) Reserves for unclaimed and unpaid collections;

(4) General creditors; and

(5) Residue to licensee. [PL 1985, c. 702, §2 (NEW).]

E. All accounts and valuable papers given to the licensee by the claimant or forwarders in possession of the superintendent pertaining to accounts placed with the licensee for collection shall be returned to the claimant or forwarder by the superintendent within 30 days after verification has been made. [PL 1985, c. 702, §2 (NEW).]

F. Nothing contained in this subsection may preclude a creditor of a debt collector from prosecuting any and all legal actions and pursuing any and all remedies afforded him by the laws of this State for collection of debts until such time as the superintendent takes possession of the debt collector's agency under this section. [PL 1985, c. 702, §2 (NEW).]

[PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW).

§11039. Fees

The aggregate of license fees provided for by this chapter is appropriated for the use of the Bureau of Consumer Credit Protection. Any balance of these funds shall not lapse, but shall be carried forward to be expended for the same purposes in the following fiscal year. [PL 1995, c. 309, §26 (AMD); PL 1995, c. 309, §29 (AFF); PL 2007, c. 273, Pt. B, §5 (REV); PL 2007, c. 695, Pt. A, §47 (AFF).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW). PL 1995, c. 309, §26 (AMD). PL 1995, c. 309, §29 (AFF). PL 2007, c. 273, Pt. B, §5 (REV). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 695, Pt. A, §47 (AFF).

§11040. Penalty

Any person who carries on business as a debt collector without first obtaining a license pursuant to this subchapter, or who carries on that business after the revocation, suspension or expiration of any license, or who performs duties relating to the conduct of a debt collector on behalf of another person as an officer, director, employee, agent or in any other capacity, unless the other person has first obtained a license which has not expired, but been revoked nor suspended is guilty of a Class E crime. [PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW).

SUBCHAPTER 4

ENFORCEMENT

§11051. Investigation, suspension and revocation of licenses

The Bureau of Consumer Credit Protection may examine or investigate the records and practices of any person the administrator believes has engaged in conduct governed by this chapter in accordance with Title 9-A, section 6-106, may review and approve collection letters proposed for use in this State and may charge for expenses incurred pursuant to Title 9-A, section 6-106, subsection 6. [PL 2021, c. 245, Pt. A, §11 (AMD).]

After notice and opportunity for hearing, the administrator may suspend or revoke a licensee's license issued pursuant to this chapter if the administrator finds that: [PL 2021, c. 245, Pt. A, §11 (NEW).]

1. Grounds for denial. A fact or condition exists that, if it had existed at the time when the licensee applied for its license, would have been grounds for denying the application;
[PL 2021, c. 245, Pt. A, §11 (NEW).]

2. Violations. The licensee has knowingly violated any material provision of this chapter or any rule adopted or order validly issued by the administrator under authority of this chapter;
[PL 2021, c. 245, Pt. A, §11 (NEW).]

3. Safety and soundness. The licensee is conducting its business in an unsafe or unsound manner;
[PL 2021, c. 245, Pt. A, §11 (NEW).]

4. Insolvency. The licensee is insolvent;
[PL 2021, c. 245, Pt. A, §11 (NEW).]

5. Failure to meet obligations. The licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors or has admitted in writing its inability to pay its debts as they become due;
[PL 2021, c. 245, Pt. A, §11 (NEW).]

6. Bankruptcy. The licensee has applied for an adjudication of bankruptcy, reorganization, arrangement or other relief under any bankruptcy;
[PL 2021, c. 245, Pt. A, §11 (NEW).]

7. Refusal of examination. The licensee has refused to permit the administrator to make an examination authorized by this chapter;
[PL 2021, c. 245, Pt. A, §11 (NEW).]

8. Failure to respond. The licensee has failed to promptly and adequately respond to communications from the administrator; or
[PL 2021, c. 245, Pt. A, §11 (NEW).]

9. Failure to file report. The licensee has willfully failed to make a report required by this chapter. [PL 2021, c. 245, Pt. A, §11 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW). PL 1989, c. 502, §A116 (AMD). RR 1995, c. 1, §27 (COR). RR 1995, c. 1, §28 (AFF). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2007, c. 273, Pt. B, §§5, 6 (REV). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 695, Pt. A, §47 (AFF). PL 2009, c. 243, §7 (AMD). PL 2021, c. 245, Pt. A, §11 (AMD).

§11051-A. Enforcement; financial institutions

When a supervised financial organization is the creditor, the Superintendent of Financial Institutions has concurrent examination authority under section 11051. The administrator and the Superintendent of Financial Institutions shall cooperate in enforcing this chapter. [PL 1995, c. 309, §24 (NEW); PL 1995, c. 309, §29 (AFF); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

SECTION HISTORY

PL 1995, c. 309, §24 (NEW). PL 1995, c. 309, §29 (AFF). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF).

§11051-B. Administrative enforcement orders

1. Cease and desist. After notice and hearing, the administrator may order a person to cease and desist from engaging in violations of this chapter or a lawful rule adopted or order issued by the administrator and may further order that the person take appropriate corrective action to reimburse consumers in cases in which consumers have been charged amounts in excess of those permitted by this chapter. Notice and hearing need not be provided prior to issuance of an order to cease and desist when, in the opinion of the administrator, immediate action is required to protect the public interest and:

A. The debt collector has not complied with section 11031; or [PL 2021, c. 245, Pt. A, §12 (NEW).]

B. The debt collector does not maintain a permanent place of business in this State. [PL 2021, c. 245, Pt. A, §12 (NEW).]

A respondent aggrieved by an order of the administrator may obtain judicial review of the order in the Superior Court. The proceeding for review is initiated and conducted in accordance with Title 5, chapter 375, subchapter 7.
[PL 2021, c. 245, Pt. A, §12 (NEW).]

2. Objection not urged; remand. An objection not urged at the hearing under subsection 1 may not be considered by the court unless the failure to urge the objection is excused for good cause shown. A party may move the court to remand the case to the administrator in the interest of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon upon good cause shown for the failure to adduce this evidence before the administrator.
[PL 2021, c. 245, Pt. A, §12 (NEW).]

3. Testimony available to parties. The administrator's copy of the testimony at the hearing under subsection 1 must be available at reasonable times to all parties for examination without cost.
[PL 2021, c. 245, Pt. A, §12 (NEW).]

4. Obtain decree. If no proceeding is initiated under subsection 1, the administrator, through the Attorney General, may obtain a decree of the Superior Court for enforcement of its order upon showing that the order was issued in compliance with this section, that no proceeding for review was timely

initiated and that the respondent is subject to the jurisdiction of the court. The decree of the Superior Court may also provide any relief available in an action brought under Title 9-A, section 6-110. [PL 2021, c. 245, Pt. A, §12 (NEW).]

5. Unconscionable agreements; fraudulent, unconscionable conduct. With respect to unconscionable agreements or fraudulent or unconscionable conduct by the respondent, the administrator may not issue an order pursuant to this section, but, through the Attorney General, may bring a civil action for an injunction. [PL 2021, c. 245, Pt. A, §12 (NEW).]

SECTION HISTORY

PL 2021, c. 245, Pt. A, §12 (NEW).

§11051-C. Assurance of discontinuance

If it is claimed that a person has engaged in conduct that could be subject to an order by the administrator or by a court, the administrator may accept an assurance in writing that the person will not engage in the same or in similar conduct in the future. Such an assurance may include any or any combination of the following: stipulations for the voluntary payment by the debt collector of the costs of investigation or of an amount to be held in escrow as restitution to debtors aggrieved by past or future conduct of the debt collector or to cover costs of future investigation; or admissions of past specific acts by the debt collector or that such acts violated this chapter or other statutes. A violation of an assurance of discontinuance is a violation of this chapter. [PL 2021, c. 245, Pt. A, §13 (NEW).]

SECTION HISTORY

PL 2021, c. 245, Pt. A, §13 (NEW).

§11052. Appeals

Any appeal from the decision of the superintendent may be taken in accordance with Title 5, chapter 375, subchapter VII. [PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW).

§11053. Civil penalty

Except for a civil action against a debt buyer, the superintendent may, through the Attorney General, bring a civil action for a penalty not to exceed $5,000 against any person who willfully violates this chapter. The superintendent may, through the Attorney General, bring a civil action for a penalty not to exceed $10,000 against a debt buyer who willfully violates this chapter. No civil penalty pursuant to this section may be imposed for violations of this chapter occurring more than 2 years before the civil action is brought. [PL 2017, c. 216, §8 (AMD); PL 2017, c. 216, §11 (AFF).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW). PL 2017, c. 216, §8 (AMD). PL 2017, c. 216, §11 (AFF).

§11054. Civil liability

1. Failure to comply with this Act. Except as otherwise provided by this section, any debt collector who fails to comply with any provisions of this Act with respect to any person is liable to that person in an amount equal to the sum of:

A. Any actual damage sustained by that person as a result of such failure; [PL 1985, c. 702, §2 (NEW).]

B. In the case of any action by an individual, such additional damages as the court may allow, but not exceeding $1,000; [PL 1985, c. 702, §2 (NEW).]

C. In the case of a class action:

(1) Such amount for each named plaintiff as may be recovered under paragraph A; and

(2) Such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed the lesser of $500,000 or 1% of the net worth of the debt collector; and [PL 1985, c. 702, §2 (NEW).]

D. In the case of any successful action to enforce the liability set out in this subsection, the costs of the action, together with a reasonable attorney's fee as determined by the court. On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees, reasonable in relation to the work expended and costs. [PL 1985, c. 702, §2 (NEW).]

[PL 1985, c. 702, §2 (NEW).]

1-A. Failure to comply with this Act by a debt buyer. Except as otherwise provided by this section, any debt buyer who fails to comply with any provisions of this Act with respect to any person is liable to that person in an amount equal to the sum of:

A. Any actual damage sustained by that person as a result of such failure; [PL 2017, c. 216, §9 (NEW); PL 2017, c. 216, §11 (AFF).]

B. In the case of any action by an individual, such additional damages as the court may allow, but not exceeding $2,000; [PL 2017, c. 216, §9 (NEW); PL 2017, c. 216, §11 (AFF).]

C. In the case of a class action:

(1) Such amount for each named plaintiff as may be recovered under paragraph A; and

(2) Such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed the lesser of $500,000 and 1% of the net worth of the debt buyer; and [PL 2017, c. 216, §9 (NEW); PL 2017, c. 216, §11 (AFF).]

D. In the case of any successful action to enforce the liability set out in this subsection, the costs of the action, together with a reasonable attorney's fee as determined by the court. On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees reasonable in relation to the work expended and costs. [PL 2017, c. 216, §9 (NEW); PL 2017, c. 216, §11 (AFF).]

[PL 2017, c. 216, §9 (NEW); PL 2017, c. 216, §11 (AFF).]

2. Considerations affecting liability. In determining the amount of liability in any action under subsection 1 or 1-A, the court shall consider, among other relevant factors:

A. In any individual action, the frequency and persistence of noncompliance by the debt collector or debt buyer, the nature of that noncompliance and the extent to which that noncompliance was intentional; or [PL 2017, c. 216, §10 (AMD); PL 2017, c. 216, §11 (AFF).]

B. In any class action, the frequency and persistence of noncompliance by the debt collector or debt buyer, the nature of that noncompliance, the resources of the debt collector or debt buyer, the number of persons adversely affected and the extent to which the debt collector's or debt buyer's noncompliance was intentional. [PL 2017, c. 216, §10 (AMD); PL 2017, c. 216, §11 (AFF).]

[PL 2017, c. 216, §10 (AMD); PL 2017, c. 216, §11 (AFF).]

3. Defenses. A debt collector or debt buyer may not be held liable in any action brought under this chapter if the debt collector or debt buyer shows, by a preponderance of evidence, that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

[PL 2017, c. 216, §10 (AMD); PL 2017, c. 216, §11 (AFF).]

4. Action to enforce liability. An action to enforce liability under this section shall be brought within one year from the date on which the violation occurs.
[PL 1985, c. 702, §2 (NEW).]

5. Action in good faith. No provision of this section imposing any liability may apply to any act done or omitted in good faith in conformity with any rule or advisory ruling of the superintendent, notwithstanding that, after the act or omission has occurred, the rule or advisory ruling is amended, rescinded, repealed or determined by judicial or other authority to be invalid for any reason.
[PL 1985, c. 702, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 702, §2 (NEW). PL 2017, c. 216, §§9, 10 (AMD). PL 2017, c. 216, §11 (AFF).

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