

§11-119. Collection activity

The following provisions govern the debt collection practices of merchants under this Article. [PL 2001, c. 287, §18 (RPR).]

1. A merchant communicating with any person other than the consumer for the purpose of acquiring location information about the consumer may:

A. Identify the merchant and state that the merchant is confirming or correcting location information concerning the consumer; [PL 2001, c. 287, §18 (NEW).]

B. Not state that the consumer owes any debt; [PL 2001, c. 287, §18 (NEW).]

C. Not communicate with any such person more than once, unless requested to do so by that person or unless the merchant reasonably believes that the earlier response of that person was erroneous or incomplete and that the person now has correct or complete location information; [PL 2001, c. 287, §18 (NEW).]

D. Not communicate by postcard; [PL 2001, c. 287, §18 (NEW).]

E. Not use language or a symbol on an envelope or in the contents of a communication effected by the mails or by telegram that indicates that the communication relates to the collection of a debt; and [PL 2001, c. 287, §18 (NEW).]

F. After the merchant 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 merchant. [PL 2001, c. 287, §18 (NEW).]
[PL 2001, c. 287, §18 (NEW).]

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

A. At an unusual time or place or a time or place known or that should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a merchant 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 2001, c. 287, §18 (NEW).]

B. If the merchant 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 merchant or unless the attorney consents to direct communication with the consumer; or [PL 2001, c. 287, §18 (NEW).]

C. At the consumer's place of employment if the merchant knows or has reason to know that the consumer's employer prohibits the consumer from receiving a communication. [PL 2001, c. 287, §18 (NEW).]
[PL 2001, c. 287, §18 (NEW).]

3. Except as provided in subsection 1, without the prior consent of the consumer given directly to the merchant or the express permission of a court of competent jurisdiction, or except as reasonably necessary to effectuate a post-judgment judicial remedy, a merchant may not communicate, in connection with the collection of a debt, with a person other than the consumer, the consumer's attorney, a consumer reporting agency if otherwise permitted by law or the attorney of the merchant.
[PL 2001, c. 287, §18 (NEW).]

4. A merchant may not engage in conduct the natural consequence of which is to harass, oppress or abuse a 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 a person; [PL 2001, c. 287, §18 (NEW).]

B. The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader; [PL 2001, c. 287, §18 (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, §3 (AMD).]

D. The advertisement for sale of a debt to coerce payment of the debt; [PL 2001, c. 287, §18 (NEW).]

E. Causing a telephone to ring or engaging a person in telephone conversation repeatedly or continuously with intent to annoy, abuse or harass a person at the called number; [PL 2001, c. 287, §18 (NEW).]

F. Except as provided in subsection 1, the placement of telephone calls without meaningful disclosure of the caller's identity; and [PL 2001, c. 287, §18 (NEW).]

G. The use of "shame cards," "shame automobiles" or similar devices, except that delivery vehicles used by the merchant in the ordinary course of business may not be considered "shame automobiles." [PL 2001, c. 287, §18 (NEW).]

[PL 2013, c. 588, Pt. C, §3 (AMD).]

5. A merchant may not use a false, deceptive or misleading representation or means 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 false representation or implication that the merchant 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 2001, c. 287, §18 (NEW).]

B. The false representation of the character, amount or legal status of a debt; [PL 2001, c. 287, §18 (NEW).]

C. The false representation or implication that an individual is an attorney or that a communication is from an attorney; [PL 2001, c. 287, §18 (NEW).]

D. The representation or implication that nonpayment of a debt will result in the arrest or imprisonment of a person or the seizure, garnishment, attachment or sale of property or wages of a person, unless that action is lawful and the merchant intends to take that action; [PL 2001, c. 287, §18 (NEW).]

E. The threat to take an action that may not legally be taken or that is not intended to be taken; [PL 2001, c. 287, §18 (NEW).]

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

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

(2) Become subject to a practice prohibited by this Article; [PL 2001, c. 287, §18 (NEW).]

G. The false representation or implication that the consumer committed a crime or other conduct in order to disgrace the consumer; [PL 2001, c. 287, §18 (NEW).]

H. Communicating or threatening to communicate to any person credit information that is known or that should be known to be false, including the failure to communicate that a disputed debt is disputed; [PL 2001, c. 287, §18 (NEW).]

I. The use or distribution of a written communication that simulates or is falsely represented to be a document authorized, issued or approved by a court, official or agency of the United States or any state, or that creates a false impression as to its source, authorization or approval; [PL 2001, c. 287, §18 (RPR).]

J. The use of a false representation or deceptive means to collect or attempt to collect a debt or to obtain information concerning a consumer; [PL 2001, c. 287, §18 (NEW).]

K. The false representation or implication that accounts have been turned over to innocent purchasers for value; [PL 2001, c. 287, §18 (NEW).]

L. The false representation or implication that documents are legal process; [PL 2001, c. 287, §18 (NEW).]

M. The use of a business, company or organization name other than the true name of the merchant's business, company or organization; [PL 2001, c. 287, §18 (NEW).]

N. The false representation or implication that documents are not legal process forms or do not require action by the consumer; or [PL 2001, c. 287, §18 (NEW).]

O. The false representation or implication that a merchant operates or is employed by a consumer reporting agency, as defined by Title 10, section 1308, subsection 3. [PL 2013, c. 588, Pt. C, §4 (AMD).]

[PL 2013, c. 588, Pt. C, §4 (AMD).]

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

A. The collection of an 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 2001, c. 287, §18 (NEW).]

B. The solicitation by a merchant of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution; [PL 2001, c. 287, §18 (NEW).]

C. Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on the check or instrument; [PL 2001, c. 287, §18 (NEW).]

D. Causing charges to be made to a 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 2001, c. 287, §18 (NEW).]

E. Communicating with a consumer regarding a debt by postcard; [PL 2001, c. 287, §18 (NEW).]

F. Using language or a symbol, other than the merchant's address and business name, on an envelope when communicating with a consumer in connection with a debt; or [PL 2001, c. 287, §18 (NEW).]

G. Using or employing notaries public, constables, sheriffs or any other officer authorized to serve legal papers in the collection of a debt. [PL 2001, c. 287, §18 (NEW).]

[PL 2001, c. 287, §18 (NEW).]

SECTION HISTORY

PL 1991, c. 787 (NEW). PL 2001, c. 287, §18 (RPR). PL 2013, c. 588, Pt. C, §§3, 4 (AMD).

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