

Amendment No. 282

Assembly Amendment to Assembly Bill No. 88 (BDR 54-630)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold*** is newly added transitory language.

JRS/TMC



Date: 4/15/2007

A.B. No. 88—Revises provisions governing the collection of debts by collection agencies. (BDR 54-630)



ASSEMBLY BILL NO. 88—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE OFFICE FOR CONSUMER HEALTH ASSISTANCE)

FEBRUARY 12, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the collection of debts by collection agencies. (BDR 54-630)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to collection agencies; **providing that certain violations of the Fair Debt Collection Practices Act are a violation of certain provisions governing collection agencies;** requiring a collection agency to ~~submit~~ **send** a written notice to a debtor within a certain period after the initial communication with the debtor; requiring a collection agency to ~~cease collection of~~ **verify** a debt ~~under certain circumstances; prohibiting a collection agency from applying a payment to a debt or portion of a debt that is disputed by the debtor under certain circumstances; revising the circumstances under which a collection agency may commence a legal action against a debtor;~~ **by obtaining or attempting to obtain certain documents;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.5 of this bill provides that a violation of certain provisions of the federal Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692g and 1692h, shall be deemed to be a violation of chapter 649 of NRS governing collection agencies.

Section 2 of this bill requires a collection agency, within 5 days after the initial communication with a debtor in connection with the collection of a debt, ~~owed by the debtor,~~ to send to the debtor a written notice setting forth ~~certain information, including, without limitation, the amount of~~ **a statement indicating that the payment or agreement to pay the debt (and the name of the creditor to whom) may be construed as an acknowledgment of the debt (is owed), and as a waiver of the statute of limitations applicable to the collection of the debt.** Section 2 also provides that, ~~if a debtor notifies a collection agency in writing that the debtor disputes a debt or any portion of a debt, the~~ **to verify a debt,** a collection agency is required to ~~cease collection of the debt until the collection agency obtains and mails~~ **obtain certain documents from the creditor and mail those documents** to the debtor. ~~In a verification of the debt or a copy of a judgment against the~~

debtor concerning the debt or, if requested by the debtor, the name and address of the original creditor.

Section 3 of this bill provides that if a debtor owes multiple debts and makes a payment to a collection agency for any of those debts, the collection agency is required to apply the payment in accordance with the debtor's directions, if any, and is prohibited from applying the payment to any debt or portion of a debt that is disputed by the debtor.

Section 4 of this bill provides that a collection agency may commence a legal action against a debtor only in certain courts depending upon where the debtor resides or whether the action involves the enforcement of an interest in real property secured by a debt or a contract signed by the debtor.

Section 5 of this bill makes the provisions of sections 1.5 and 2 of this bill applicable to a foreign collection agency.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 649 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~2, 3 and 4~~ **1.5 and 2** of this act.

Sec. 1.5. A violation of any provision of section 809 or 810 of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692g and 1692h, or any regulation adopted pursuant thereto, shall be deemed to be a violation of this chapter.

Sec. 2. 1. Within 5 days after the initial communication with a debtor in connection with the collection of a debt, ~~owed by the debtor,~~ a collection agency shall, unless the ~~debtor has paid the debt, submit~~ following information is included in the initial communication, send a written notice to the debtor ~~setting forth:~~

- ~~(a) The amount of the debt;~~
- ~~(b) The name of the creditor to whom the debt is owed;~~
- ~~(c) A statement indicating that unless the debtor, within 30 days after receiving the written notice, disputes the validity of the debt or any portion of the debt, the collection agency will presume that the debt is valid;~~
- ~~(d) A statement indicating that, if the debtor notifies the collection agency in writing within 30 days after receiving the written notice that the debtor disputes the debt or any portion of the debt, the collection agency will:~~
 - ~~(1) Obtain a verification of the debt or a copy of a judgment issued against the debtor concerning the debt; and~~
 - ~~(2) Mail a copy of the verification or judgment to the debtor;~~
- ~~(e) A statement indicating that, if the debtor so requests from the collection agency in writing within 30 days after receiving the written notice, the collection agency will provide to the debtor the name and address of the original creditor, if different from the name and address of the current creditor for the debt; and~~
- ~~(f) A statement indicating that, if the debtor pays or agrees to pay the debt or any portion of the debt, the payment or agreement to pay may be construed as:~~

- ~~(1) An acknowledgment of the debt; or~~
 - ~~(2) A waiver of any applicable statute of limitations.~~
- ~~2. If a debtor, within 30 days after receiving a written notice from a collection agency pursuant to subsection 1, notifies the collection agency in writing that the debtor disputes the debt or any portion of the debt or requests in writing the name and address of the original creditor, the collection agency shall cease collection of the debt or any disputed portion of the debt until the collection agency:~~

~~(a) Obtains a verification of the debt or a copy of a judgment issued against the debtor concerning the debt or, if requested by the debtor, the name and address of the original creditor; and~~

~~(b) Mails to the debtor a copy of the verification or judgment or the name and address of the original creditor.~~

~~3. The failure by a debtor to dispute the validity of a debt or any portion of a debt pursuant to this section must not be construed as an admission of liability by the debtor.~~ that includes a statement indicating that:

(a) If the debtor pays or agrees to pay the debt or any portion of the debt, the payment or agreement to pay may be construed as:

(1) An acknowledgment of the debt by the debtor; and

(2) A waiver by the debtor of any applicable statute of limitations set forth in NRS 11.190 that otherwise precludes the collection of the debt; and

(b) If the debtor does not understand or has questions concerning his legal rights or obligations relating to the debt, the debtor should seek legal advice.

2. To verify a debt, a collection agency shall:

(a) Obtain or attempt to obtain from the creditor any document that is not in the possession of the collection agency and is reasonably responsive to the dispute of the debtor, if any; and

(b) If such a document is obtained, mail the document to the debtor.

~~Sec. 3. If a debtor owes multiple debts and makes a single payment to a collection agency in payment of any of those debts, the collection agency:~~

~~1. Shall apply the payment in accordance with the debtor's directions, if any; and~~

~~2. Shall not apply the payment to any debt or portion of a debt that is disputed by the debtor.~~ (Deleted by amendment.)

~~Sec. 4. If a collection agency commences any legal action against a debtor concerning a debt owed by the debtor, the collection agency shall:~~

~~(a) If the legal action is commenced to enforce an interest in real property securing the debt, commence the legal action only in a court of competent jurisdiction in the area in which the real property is located; or~~

~~(b) If the legal action is not commenced to enforce such an interest, commence the legal action only in a court of competent jurisdiction in the area in which the debtor:~~

~~(1) Signed the contract that is the subject of the legal action; or~~

~~(2) Resides at the commencement of the legal action.~~

~~2. The provisions of this section do not authorize a collection agency to commence any legal action specified in this section.~~ (Deleted by amendment.)

~~Sec. 5. NRS 649.171 is hereby amended to read as follows:~~

~~649.171 1. A person who is not licensed in this State as a collection agency may apply to the Commissioner for a certificate of registration as a foreign collection agency.~~

~~2. To be issued and to hold a certificate of registration as a foreign collection agency, a person:~~

~~(a) Must hold a license or permit to do business as a collection agency in another state;~~

~~(b) Must meet the qualifications to do business as a collection agency in this State;~~

~~(c) Must not have any employees or agents present in this State who engage in the collection of claims and must not maintain any business locations in this State as a collection agency;~~

(d) Must submit proof to the Commissioner, upon application and upon each annual renewal of the ~~certification~~ **certificate** of registration, that the person and his employees and agents will not, in this State:

(1) Engage in the business of soliciting the right to collect or receive payment for another of any claim; or

(2) Advertise or solicit, either in print, by letter, in person or otherwise, the right to collect or receive payment for another of any claim;

(e) When collecting claims against debtors who are present in this State, must:

(1) Limit his activities and those of his employees and agents to interstate communications by telephone, mail or facsimile; and

(2) Comply with the requirements of NRS 649.305 to 649.375, inclusive, **and sections ~~2, 3 and 4~~ 1.5 and 2 of this act**, with regard to his activities and those of his employees and agents;

(f) Must pay:

(1) A fee to apply for a certificate of registration of not less than \$200 and not more than \$600, prorated on the basis of the registration year as determined by the Commissioner; and

(2) An annual renewal fee of not more than \$200;

(g) Must deposit and maintain a bond or an appropriate substitute for the bond in the same manner as an applicant or licensee pursuant to NRS 649.105, 649.115 and 649.119;

(h) Must maintain his accounts, books and records in accordance with generally accepted accounting principles and in accordance with the requirements of subsection 1 of NRS 649.335; and

(i) Must pay any fees related to any examination of his accounts, books and records conducted by the Commissioner pursuant to subsection 3.

3. The Commissioner may conduct an annual examination and any additional examinations pursuant to NRS 649.335 of the accounts, books and records of each person who holds a certificate of registration as a foreign collection agency.

4. The Commissioner may take disciplinary action pursuant to NRS 649.385, 649.390 and 649.395 against a person who holds a certificate of registration as a foreign collection agency for any act or omission that would be grounds for taking such disciplinary action under those sections.

5. The Commissioner shall adopt:

(a) Regulations establishing the amount of the fees required pursuant to this section; and

(b) Any other regulations as may be necessary to carry out the provisions of this section.

Sec. 6. ~~[This act becomes effective on July 1, 2007.]~~ (Deleted by amendment.)