

# SENATE BILL 916

I1, C2, F2

7lr3524  
CF HB 770

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By: **Senators Feldman, King, Middleton, Peters, and Rosapepe**

Introduced and read first time: February 3, 2017

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Collection Agency Licensing Act – Student Education Loan Servicers**

3 FOR the purpose of altering the definition of “collection agency” under the Maryland  
4 Collection Agency Licensing Act to include a person who directly or indirectly  
5 engages in the business of servicing any student education loan of a student  
6 borrower; and generally relating to the Maryland Collection Agency Licensing Act.

7 BY repealing and reenacting, with amendments,

8 Article – Business Regulation

9 Section 7–101

10 Annotated Code of Maryland

11 (2015 Replacement Volume and 2016 Supplement)

12 BY repealing and reenacting, without amendments,

13 Article – Business Regulation

14 Section 7–102, 7–301, and 7–308(a)

15 Annotated Code of Maryland

16 (2015 Replacement Volume and 2016 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Business Regulation**

20 7–101.

21 (a) In this title the following words have the meanings indicated.

22 (b) “Board” means the State Collection Agency Licensing Board.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) "Collection agency" means a person who engages directly or indirectly in the  
2 business of:

3 (1) (i) collecting for, or soliciting from another, a consumer claim; or

4 (ii) collecting a consumer claim the person owns, if the claim was in  
5 default when the person acquired it;

6 (2) collecting a consumer claim the person owns, using a name or other  
7 artifice that indicates that another party is attempting to collect the consumer claim;

8 (3) giving, selling, attempting to give or sell to another, or using, for  
9 collection of a consumer claim, a series or system of forms or letters that indicates directly  
10 or indirectly that a person other than the owner is asserting the consumer claim; [or]

11 (4) employing the services of an individual or business to solicit or sell a  
12 collection system to be used for collection of a consumer claim; OR

13 **(5) SERVICING A STUDENT EDUCATION LOAN OF A STUDENT**  
14 **BORROWER, INCLUDING:**

15 **(I) COLLECTING AND RECEIVING ANY PRINCIPAL, INTEREST,**  
16 **OR OTHER MONEY OWED UNDER A STUDENT EDUCATION LOAN; OR**

17 **(II) PERFORMING ANY OTHER ADMINISTRATIVE SERVICES THAT**  
18 **RELATE TO A STUDENT EDUCATION LOAN.**

19 (d) "Commissioner" means the Commissioner of Financial Regulation.

20 (e) "Consumer claim" means a claim that:

21 (1) is for money owed or said to be owed by a resident of the State; and

22 (2) arises from a transaction in which, for a family, household, or personal  
23 purpose, the resident sought or got credit, money, personal property, real property, or  
24 services.

25 (f) "License" means a license issued by the Board to do business as a collection  
26 agency.

27 (g) "Licensed collection agency" means a person who is licensed by the Board to  
28 do business as a collection agency.

29 7-102.

30 (a) (1) In this section the following words have the meanings indicated.

1                   (2)    “Common ownership” means direct or indirect ownership of more than  
2 50% of a person.

3                   (3)    “Principal business” means a business activity of a person that  
4 comprises more than 50% of the total business activities of the person.

5           (b)    This title does not apply to:

6                   (1)    a bank;

7                   (2)    a federal or State credit union;

8                   (3)    a mortgage lender;

9                   (4)    a person acting under an order of a court of competent jurisdiction;

10                  (5)    a licensed real estate broker, or an individual acting on behalf of the  
11 real estate broker, in the collection of rent or allied charges for property;

12                  (6)    a savings and loan association;

13                  (7)    a title company as to its escrow business;

14                  (8)    a trust company;

15                  (9)    a lawyer who is collecting a debt for a client, unless the lawyer has an  
16 employee who:

17                           (i)    is not a lawyer; and

18                           (ii)   is engaged primarily to solicit debts for collection or primarily  
19 makes contact with a debtor to collect or adjust a debt through a procedure identified with  
20 the operation of a collection agency; or

21                  (10)   a person who is collecting a debt for another person if:

22                           (i)    both persons are related by common ownership;

23                           (ii)   the person who is collecting a debt does so only for those persons  
24 to whom it is related by common ownership;

25                           (iii)  the principal business of the person who is collecting a debt is not  
26 the collection of debts; and

27                           (iv)   before collecting a debt, the person files with the Board:

- 1 1. the correct name of the person;
- 2 2. an address and telephone number of a contact person; and
- 3 3. the name of the person's resident agent.

4 7-301.

5 (a) Except as otherwise provided in this title, a person must have a license  
6 whenever the person does business as a collection agency in the State.

7 (b) This section does not apply to:

8 (1) a regular employee of a creditor while the employee is acting under the  
9 general direction and control of the creditor to collect a consumer claim that the creditor  
10 owns; or

11 (2) a regular employee of a licensed collection agency while the employee is  
12 acting within the scope of employment.

13 7-308.

14 (a) Subject to the hearing provisions of § 7-309 of this subtitle, the Board may  
15 reprimand a licensee or suspend or revoke a license if the licensee or any owner, director,  
16 officer, member, partner, or agent of the licensee:

17 (1) makes any material misstatement in an application for a license;

18 (2) is convicted under the laws of the United States or of any state of:

19 (i) a felony; or

20 (ii) a misdemeanor that is directly related to the fitness and  
21 qualification of the person to engage in the collection agency business;

22 (3) in connection with the collection of any consumer claim:

23 (i) commits any fraud; or

24 (ii) engages in any illegal or dishonest activities;

25 (4) knowingly or negligently violates the Maryland Consumer Debt  
26 Collection Act; or

27 (5) fails to comply with a lawful order that the Board passes under this  
28 title.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2017.