



House of Representatives

General Assembly

File No. 570

January Session, 2007

Substitute House Bill No. 7210

House of Representatives, April 24, 2007

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE PREVENTION OF ABUSIVE AND DECEPTIVE DEBT COLLECTION PRACTICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2007, and applicable to any cause of*
2 *action accruing on or after said date*) (a) A creditor, as defined in section
3 36a-645 of the general statutes, who uses any abusive, harassing,
4 fraudulent, deceptive or misleading representation, device or practice
5 to collect or attempt to collect a debt in violation of section 36a-646 of
6 the general statutes or the regulations adopted pursuant to section 36a-
7 647 of the general statutes shall be liable to a person who is harmed by
8 such conduct in an amount equal to the sum of: (1) Any actual
9 damages sustained by such person, (2) if such person is an individual,
10 such additional damages as the court may award, not to exceed one
11 thousand dollars, and (3) in the case of any successful action to enforce
12 liability under the provisions of this subsection, the costs of the action
13 and, in the discretion of the court, a reasonable attorney's fee.

14 (b) In determining the amount of liability in an action brought

15 pursuant to subsection (a) of this section, the trier of fact shall consider,
16 among other relevant factors, the frequency and persistence of
17 noncompliance by the creditor, the nature of such noncompliance and
18 the extent to which such noncompliance was intentional.

19 (c) A creditor may not be held liable in an action brought under this
20 section if the creditor shows by a preponderance of the evidence that
21 the violation was not intentional and resulted from a bona fide error,
22 notwithstanding the maintenance of procedures reasonably adopted
23 by the creditor to avoid any such error.

24 (d) An action to enforce liability under this section may be brought
25 in any court of competent jurisdiction not later than one year after the
26 date on which the violation occurs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007, and applicable to any cause of action accruing on or after said date</i>	New section

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Judicial Dept.	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill provides a private (civil) cause of action against creditors who use abusive and deceptive debt collection practices. This could yield minimal annual revenue to the General Fund from court fees. Any caseload increase under the bill could be accommodated by the Judicial Department without requiring additional resources.

The Out Years

The annualized ongoing fiscal impact identified above would remain relatively constant into the future since court fees are set by statute.

OLR Bill Analysis

sHB 7210

AN ACT CONCERNING THE PREVENTION OF ABUSIVE AND DECEPTIVE DEBT COLLECTION PRACTICES.

SUMMARY:

This bill makes a creditor who, in violation of state law on creditors' collection practices, uses abusive, harassing, fraudulent, deceptive, or misleading representations, devices, or practices to collect or attempt to collect a debt liable for (1) actual damages; (2) additional damages up to \$1,000, if the debtor is an individual; and (3) if the suit is successful, court costs and, at the court's discretion, reasonable attorney's fees. The bill requires the trier of fact to consider the frequency and persistence of noncompliance by the creditor, the nature of the noncompliance, the extent to which the noncompliance was intentional, and other relevant factors when determining the amount of liability.

A creditor may not be held liable under the bill if it can show by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid the error.

By law, a creditor is a person or his or her assignee to whom a consumer owes a debt resulting from a transaction that occurred in the ordinary course of the person's business. A creditor is not a consumer collection agency or a federal, state, or municipal department.

Suits must be brought within one year after the date of the violation.

EFFECTIVE DATE: July 1, 2007 and applicable to causes of action arising on or after that date.

BACKGROUND
Creditors' Collection Practices Regulations

State regulations prohibit creditors from engaging in any conduct that would result in the harassment or abuse of a reasonable person when collecting a debt and from intentionally harassing or abusing a person. The regulations specifically prohibit 16 different practices, including:

1. using or threatening to use violence or other criminal means to harm a person or his or her reputation or property;
2. using obscene or profane language;
3. publicly disseminating lists identifying consumers who allegedly refuse to pay a debt; and
4. repeatedly or continuously calling a telephone number or engaging in a telephone conversation if the natural consequence is annoyance, abuse, or harassment (Conn. Agencies Reg. § 36a-647-5).

Legislative History

The House referred the bill (File 104) to the Judiciary Committee, which reported a substitute that makes a court's award of reasonable attorney's fees discretionary rather than mandatory.

COMMITTEE ACTION

General Law Committee

Joint Favorable

Yea 19 Nay 0 (03/06/2007)

Judiciary Committee

Joint Favorable Substitute

Yea 42 Nay 0 (04/09/2007)