

ASSEMBLY BILL NO. 152—ASSEMBLYMEN
KRASNER, YEAGER AND MARZOLA

FEBRUARY 18, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the collection of certain debts. (BDR 54-855)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 debt collection; imposing certain requirements and restrictions relating to the collection of a debt by the person to whom the debt is owed; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law generally defines “collection agency” to mean all persons engaging in certain activities relating to the collection of debts owed to another person. (NRS 649.020) Existing law imposes various requirements and restrictions on the operation and practices of a collection agency. (NRS 649.305-649.375) This bill applies certain requirements and restrictions which apply to collection agencies to persons who engage in certain activities related to the collection of debts on their own behalf.

Section 1 of this bill defines “creditor debt collector” to mean a person who engages, directly or indirectly, in the collection of or in soliciting or obtaining in any manner the payment of a claim owed or due or asserted to be owed or due to the person. **Section 2** of this bill makes a conforming change to properly place the new definition in the Nevada Revised Statutes.

Existing law authorizes a person to record certain telephone calls which are made to the person by a collection agency or collection agent under certain circumstances. (NRS 649.331) **Section 3** of this bill expands these provisions to allow a person to record certain telephone calls made to the person by a creditor debt collector.

Existing law provides that, to verify a debt, a collection agency is required to obtain or attempt to obtain from the creditor certain documents that are reasonably responsive to any dispute of the debtor and mail those documents to the debtor. (NRS 649.332) **Section 4** of this bill similarly requires a creditor debt collector to mail to a debtor any document in the possession of the creditor debt collector that is reasonably responsive to any dispute of the debtor in order to verify a debt.



Existing law requires a collection agency that is collecting a debt on behalf of a hospital to provide certain information to a debtor not later than 5 days after the initial communication with the debtor in connection with the collection of the debt. (NRS 649.332) **Section 4** of this bill requires a creditor debt collector that is a hospital to comply with those requirements.

Existing law prohibits a collection agency or its manager, agents or employees from engaging in certain practices relating to the collection of debts. (NRS 649.375) **Section 5** of this bill revises and reorganizes certain provisions of existing law which prohibit certain practices for the purpose of prohibiting a creditor debt collector from engaging in such practices.

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 a new section to read as follows:

“Creditor debt collector” means a person who engages, directly or indirectly, in the collection of or in soliciting or obtaining in any manner the payment of a claim owed or due or asserted to be owed or due to the person.

Sec. 2. NRS 649.005 is hereby amended to read as follows:

649.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 649.010 to 649.035, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 649.331 is hereby amended to read as follows:

649.331 1. After providing notice that the telephone conversation will be recorded, a person may record any telephone call that:

(a) Concerns a claim which is owed or asserted to be owed by the person;

(b) Is made by a collection agency, ~~or~~ collection agent ~~or~~ *or creditor debt collector*; and

(c) Is received by the person.

2. A person who records a telephone call pursuant to this section is required to make a statement immediately after the recording begins that the telephone call is being recorded.

3. As used in this section, “record” means the acquisition of the contents of a wire communication through the use of a recording device.

Sec. 4. NRS 649.332 is hereby amended to read as follows:

649.332 1. To verify a debt ~~[, a]~~:

(a) A collection agency shall:

~~(a)~~ *(1)* 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



1 ~~[(b)]~~ (2) If such a document is obtained, mail the document to
2 the debtor.

3 *(b) A creditor debt collector shall mail to the debtor any*
4 *document in the possession of the creditor debt collector that is*
5 *reasonably responsive to the dispute of the debtor, if any.*

6 2. When *a creditor debt collector that is a hospital is*
7 *collecting a debt, or when a collection agency is* collecting a debt
8 on behalf of a hospital, *the creditor debt collector or collection*
9 *agency shall*, within 5 days after the initial communication with the
10 debtor in connection with the collection of the debt, ~~[a collection~~
11 ~~agency shall, unless the following information is included in the~~
12 ~~initial communication,]~~ send a written notice to the debtor that
13 includes a statement indicating that:

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

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

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

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

23 3. *A creditor debt collector or collection agency is not*
24 *required to send a written notice to a debtor pursuant to*
25 *subsection 2 if the information specified in subsection 2 is*
26 *included in the initial communication with the debtor in*
27 *connection with the collection of the debt.*

28 4. As used in this section, "hospital" has the meaning ascribed
29 to it in NRS 449.012.

30 **Sec. 5.** NRS 649.375 is hereby amended to read as follows:

31 649.375 **1.** A collection agency, or its manager, agents or
32 employees, shall not:

33 ~~[(1) Use any device, subterfuge, pretense or deceptive means or~~
34 ~~representations to collect any debt, nor use any collection letter,~~
35 ~~demand or notice which simulates a legal process or purports to be~~
36 ~~from any local, city, county, state or government authority or~~
37 ~~attorney.~~

38 ~~—2.]~~ (a) Collect or attempt to collect any interest, charge, fee or
39 expense incidental to the principal obligation unless:

40 ~~[(a)]~~ (1) Any such interest, charge, fee or expense as authorized
41 by law or as agreed to by the parties has been added to the principal
42 of the debt by the creditor before receipt of the item of collection;

43 ~~[(b)]~~ (2) Any such interest, charge, fee or expense as authorized
44 by law or as agreed to by the parties has been added to the principal



1 of the debt by the collection agency and described as such in the
2 first written communication with the debtor; or

3 ~~[(e)]~~ (3) The interest, charge, fee or expense has been judicially
4 determined as proper and legally due from and chargeable against
5 the debtor.

6 ~~[(3)]~~ (b) Assign or transfer any claim or account upon
7 termination or abandonment of its collection business unless prior
8 written consent by the customer is given for the assignment or
9 transfer. The written consent must contain an agreement with the
10 customer as to all terms and conditions of the assignment or
11 transfer, including the name and address of the intended assignee.
12 Prior written consent of the Commissioner must also be obtained for
13 any bulk assignment or transfer of claims or accounts, and any
14 assignment or transfer may be regulated and made subject to such
15 limitations or conditions as the Commissioner by regulation may
16 reasonably prescribe.

17 ~~[(4)]~~ (c) Operate its business or solicit claims for collection from
18 any location, address or post office box other than that listed on its
19 license or as may be prescribed by the Commissioner.

20 ~~[(5) Harass a debtor's employer in collecting or attempting to~~
21 ~~collect a claim, nor engage in any conduct that constitutes~~
22 ~~harassment as defined by regulations adopted by the Commissioner.~~

23 ~~—6.— Advertise for sale or threaten to advertise for sale any claim~~
24 ~~as a means to enforce payment of the claim, unless acting under~~
25 ~~court order.~~

26 ~~—7.— Publish or post, or cause to be published or posted, any list~~
27 ~~of debtors except for the benefit of its stockholders or membership~~
28 ~~in relation to its internal affairs.~~

29 ~~—8.]~~ (d) Conduct or operate, in conjunction with its collection
30 agency business, a debt counseling or prorater service for a debtor
31 who has incurred a debt primarily for personal, family or household
32 purposes whereby the debtor assigns or turns over to the counselor
33 or prorater any of the debtor's earnings or other money for
34 apportionment and payment of the debtor's debts or obligations.
35 This section does not prohibit the conjunctive operation of a
36 business of commercial debt adjustment with a collection agency if
37 the business deals exclusively with the collection of commercial
38 debt.

39 *2. A collection agency, or its manager, agents or employees,*
40 *or a creditor debt collector shall not:*

41 *(a) Use any device, subterfuge, pretense or deceptive means or*
42 *representations to collect any debt, nor use any collection letter,*
43 *demand or notice which simulates a legal process or purports to be*
44 *from any local, city, county, state or government authority or*
45 *attorney.*



1 ***(b) Harass a debtor's employer in collecting or attempting to***
2 ***collect a claim, nor engage in any conduct that constitutes***
3 ***harassment as defined by regulations adopted by the***
4 ***Commissioner.***

5 ***(c) Advertise for sale or threaten to advertise for sale any claim***
6 ***as a means to enforce payment of the claim, unless acting under***
7 ***court order.***

8 ***(d) Except as otherwise provided in subsection 4, publish or***
9 ***post, or cause to be published or posted, any list of debtors.***

10 ***3. A creditor debt collector shall not collect or attempt to***
11 ***collect any interest, charge, fee or expense incidental to the***
12 ***principal obligation unless:***

13 ***(a) Any such interest, charge, fee or expense as authorized by***
14 ***law or as agreed to by the parties has been added to the principal***
15 ***of the debt by the creditor debt collector before the creditor debt***
16 ***collector collects or attempts to collect the interest, charge, fee or***
17 ***expense; or***

18 ***(b) The interest, charge, fee or expense has been judicially***
19 ***determined as proper and legally due from and chargeable against***
20 ***the debtor.***

21 ***4. A collection agency, or its manager, agents or employees,***
22 ***may publish or post, or cause to be published or posted, a list of***
23 ***debtors if such list is for the benefit of the stockholders or***
24 ***members of the collection agency in relation to its internal affairs.***

