

CHAPTER 788

S.B. No. 400

AN ACT

relating to the regulation of debt collectors.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 547, Acts of the 63rd Legislature, Regular Session, 1973 (Article 5069–11.01 et seq.), is amended by adding Section 7A to read as follows:

Sec. 7A. CORRECTION OF THIRD-PARTY DEBT COLLECTOR'S FILES; BOND REQUIREMENT. (a) *If an individual disputes the accuracy of an item in a third-party debt collector's file on the individual, the individual may give notice of the inaccuracy in writing to the third-party debt collector. The third-party debt collector shall provide forms for the notice and shall assist an individual in preparing the notice when requested.*

(b) *Within 30 days after the date on which a notice of inaccuracy is received, the third-party debt collector shall send a written statement to the individual in which the third-party debt collector shall deny the inaccuracy, admit the inaccuracy, or state that it has not had sufficient time to complete its investigation.*

(c) *If the third-party debt collector admits that the item is inaccurate, it shall within five business days correct the item in its file and shall immediately send to each person who has previously received a report from the third-party debt collector containing the inaccurate information notice of the inaccuracy and a copy of the accurate report.*

(d) *If the third-party debt collector states that it has not had sufficient time to complete its investigation, it shall immediately change the item in its file as requested by the individual, shall immediately send to each person who previously received the report containing the information a notice that is equivalent to a notice under Subsection (c) of this section and a*

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copy of the changed report, and shall immediately cease collection efforts if the item involves a debt. When the third-party debt collector completes its investigation and determines whether the item is accurate or inaccurate, it shall inform the individual of its determination. If the third-party debt collector determines that the information was accurate, it may again report that information and may resume its collection efforts.

(e) A third-party debt collector may not engage in debt collection unless the third-party debt collector entity whether a sole proprietorship, firm, partnership, or corporation has obtained a surety bond issued by a surety company authorized to do business in this state as required by this section. A copy of the bond must be filed with the secretary of state.

(f) The surety bond must be in favor of:

(1) any person who is damaged by a violation of this Act; and

(2) the state, for the benefit of any person who is damaged by a violation of this Act.

(g) A person claiming against the bond for a violation of this Act may maintain an action against the third-party debt collector and against the surety. The aggregate liability of the surety to all persons damaged by a violation of this Act may not exceed the amount of the surety bond.

(h) The bond must be in the amount of \$10,000.

(i) For purposes of this section, "third-party debt collector" means a debt collector, as defined by 15 U.S.C. Section 1692a(6), other than an attorney at law collecting a debt as an attorney on behalf of and in the name of a client, unless the attorney has nonattorney employees who are regularly engaged to solicit debts for collection or who regularly make contact with debtors for the purpose of collection or adjustment of the debt.

(j) The provisions of this section apply to any person who for compensation gathers, records, or disseminates information relative to the creditworthiness, financial responsibility, and paying habits and other similar information, regarding any person, for the purpose of furnishing such information to any other person.

SECTION 2. This Act takes effect September 1, 1993.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 31, 1993, by a viva-voce vote; the Senate concurred in House amendments on May 23, 1993, by a viva-voce vote; passed the House, with amendments, on May 19, 1993, by a non-record vote.

Approved June 18, 1993.

Effective Sept. 1, 1993.