

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

As Engrossed: H3/27/09 S4/7/09

A Bill

HOUSE BILL 2228

4
5 By: Representative Cash
6
7

For An Act To Be Entitled

8 AN ACT TO ENACT THE FAIR DEBT COLLECTION
9 PRACTICES ACT; AND FOR OTHER PURPOSES.
10

Subtitle

11
12 TO ENACT THE FAIR DEBT COLLECTION
13 PRACTICES ACT.
14

15
16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 *SECTION 1. Arkansas Code Title 17, Chapter 24, is amended to add an*
20 *additional subchapter to read as follows:*

21 *17-24-501. This subchapter shall be known and may be cited as the*
22 *"Arkansas Fair Debt Collection Practices Act".*
23

24 *17-24-502. Definitions.*

25 *As used in this subchapter:*

26 *(1) "Communication" means the conveying of information regarding*
27 *a debt directly or indirectly to a person;*

28 *(2) "Consumer" means a natural person obligated or*
29 *allegedly obligated to pay a debt;*

30 *(3)(A) "Creditor" means a person:*

31 *(i) Who offers or extends credit, creating a debt;*

32 *or*

33 *(ii) To whom a debt is owed.*

34 *(B) "Creditor" does not include a person to the extent*
35 *that he or she receives an assignment or transfer of a debt in default solely*
36 *to facilitate collection of the debt for another;*



1 (4) "Debt" means a obligation or alleged obligation of a
2 consumer to pay money arising out of a transaction in which the money,
3 property, insurance, or services that are the subject of the transaction are
4 primarily for personal, family, or household purposes, whether or not the
5 obligation has been reduced to judgment;

6 (5)(A) "Debt collector" means a person who uses an
7 instrumentality of interstate commerce or the mails in a business whose
8 principal purpose is the collection of debts or who regularly collects or
9 attempts to collect, directly or indirectly, debts owed or due or asserted to
10 be owed or due another.

11 (B) Except as provided in subdivision (5)(D)(vi) of this
12 section, "debt collector" includes a creditor who, in the process of
13 collecting his or her own debts, uses a name other than his or her own that
14 would indicate that a third person is collecting or attempting to collect the
15 debts.

16 (C) As used in § 17-24-507(b)(6), "debt collector"
17 includes a person who uses an instrumentality of interstate commerce or the
18 mails in a business whose principal purpose is the enforcement of security
19 interests.

20 (D) "Debt collector" does not include any:

21 (i) Officer or employee of a creditor while, in the
22 name of the creditor, collecting debts for the creditor;

23 (ii) Person while acting as a debt collector for
24 another person, both of whom are related by common ownership or affiliated by
25 corporate control, if the person acting as a debt collector does so only for
26 persons to whom it is so related or affiliated and if the principal business
27 of the person is not the collection of debts;

28 (iii) Officer or employee of the United States or a
29 state to the extent that collecting or attempting to collect a debt is in the
30 performance of his or her official duties;

31 (iv) Person while serving or attempting to serve
32 legal process on another person in connection with the judicial enforcement
33 of a debt;

34 (v) Nonprofit organization that, at the request of
35 consumers, performs bona fide consumer credit counseling and assists
36 consumers in the liquidation of their debts by receiving payments from the

1 consumers and distributing the amounts to creditors; or

2 (vi) Person collecting or attempting to collect a
 3 debt owed or due or asserted to be owed or due another to the extent the
 4 collection activity:

5 (a) Is incidental to a bona fide fiduciary
 6 obligation or a bona fide escrow arrangement;

7 (b) Concerns a debt that was originated by the
 8 person;

9 (c) Concerns a debt that was not in default at
 10 the time it was obtained by the person; or

11 (d) Concerns a debt obtained by the person as
 12 a secured party in a commercial credit transaction involving the creditor;
 13 and

14 (6) "Location information" means:

15 (A) A consumer's place of abode and his or her telephone
 16 number at the consumer's place of abode; or

17 (B) The consumer's place of employment.

18
 19 17-24-503. Acquisition of location information.

20 A debt collector communicating with a person other than the consumer to
 21 acquire location information about the consumer shall:

22 (1) Identify himself or herself, state that he or she is
 23 confirming or correcting location information concerning the consumer, and,
 24 only if expressly requested, identify his or her employer;

25 (2) Not state that the consumer owes a debt;

26 (3) Not communicate with the person more than one (1) time

27 unless:

28 (A) Requested to do so by the person; or

29 (B) The debt collector reasonably believes that:

30 (i) The earlier response of the person is erroneous
 31 or incomplete; and

32 (ii) The person now has correct or complete location
 33 information;

34 (4) Not communicate by postcard;

35 (5) Not use a language or symbol on a envelope or in the
 36 contents of a communication effected by the mails or telegram that indicates

1 that the debt collector is in the debt collection business or that the
2 communication relates to the collection of a debt; and

3 (6) After the debt collector knows the consumer is represented
4 by an attorney with regard to the subject debt and has knowledge of or can
5 readily ascertain the attorney's name and address, not communicate with a
6 person other than that attorney unless the attorney fails to respond to
7 communication from the debt collector within a reasonable period of time.

8
9 17-24-504. Communication in connection with debt collection.

10 (a) Without the prior consent of the consumer given directly to the
11 debt collector or the express permission of a court of competent
12 jurisdiction, a debt collector may not communicate with a consumer in
13 connection with the collection of a debt:

14 (1)(A) At a unusual time or place or a time or place known or
15 which should be known to be inconvenient to the consumer.

16 (B) In the absence of knowledge of circumstances to the
17 contrary, a debt collector shall assume that the convenient time for
18 communicating with a consumer is after 8:00 a.m. and before 9:00 p.m. local
19 time at the consumer's location;

20 (2) If the debt collector knows the consumer is represented by
21 an attorney with respect to the debt and has knowledge of or can readily
22 ascertain the attorney's name and address, unless:

23 (A) The attorney fails to respond within a reasonable
24 period of time to a communication from the debt collector; or

25 (B) The attorney consents to direct communication with the
26 consumer; or

27 (3) At the consumer's place of employment if the debt collector
28 knows or has reason to know that the consumer's employer prohibits the
29 consumer from receiving the communication.

30 (b) Except as provided in § 17-24-503, without the prior consent of
31 the consumer given directly to the debt collector or the express permission
32 of a court of competent jurisdiction, or as reasonably necessary to
33 effectuate a post-judgment judicial remedy, a debt collector may not
34 communicate in connection with the collection of a debt with a person other
35 than the consumer, his or her attorney, a consumer reporting agency if
36 otherwise permitted by law, the creditor, the attorney of the creditor, or

1 the attorney of the debt collector.

2 (c) If a consumer notifies a debt collector in writing that the
3 consumer refuses to pay a debt or that the consumer wishes the debt collector
4 to cease further communication with the consumer, the debt collector shall
5 not communicate further with the consumer with respect to the debt, except:

6 (1) To advise the consumer that the debt collector's further
7 efforts are being terminated;

8 (2) To notify the consumer that the debt collector or creditor
9 may invoke specified remedies that are ordinarily invoked by the debt
10 collector or creditor; or

11 (3)(A) When applicable, to notify the consumer that the debt
12 collector or creditor intends to invoke a specified remedy.

13 (B) If the notice from the consumer is made by mail,
14 notification is complete upon receipt.

15 (d) As used in this section, "consumer" includes the consumer's
16 spouse, parent if the consumer is a minor, guardian, executor, or
17 administrator.

18
19 17-24-505. Harassment or abuse.

20 (a) A debt collector may not engage in a conduct the natural
21 consequence of which is to harass, oppress, or abuse a person in connection
22 with the collection of a debt.

23 (b) Without limiting the general application of subsection (a) of this
24 section, the following conduct is a violation of this section:

25 (1) The use or threat of use of violence or other criminal means
26 to harm the physical person, reputation, or property of a person;

27 (2) The use of obscene or profane language or language the
28 natural consequence of which is to abuse the hearer or reader;

29 (3) The publication of a list of consumers who allegedly refuse
30 to pay debts, except to a consumer reporting agency or to persons meeting the
31 requirements of 15 U.S.C. § 1681a(f) or 15 U.S.C. § 1681b(3) as they existed
32 on January 1, 2009;.

33 (4) The advertisement for sale of a debt to coerce payment of
34 the debt;

35 (5) Causing a telephone to ring or engaging a person in
36 telephone conversation repeatedly or continuously with intent to annoy,

1 abuse, or harass a person at the called number; or

2 (6) Except as provided in § 17-24-503, the placement of
3 telephone calls without meaningful disclosure of the caller's identity.

4
5 17-24-506. False or misleading representations.

6 (a) A debt collector may not use a false, deceptive, or misleading
7 representation or means in connection with the collection of a debt.

8 (b) Without limiting the general application of subsection (a) of this
9 section, the following conduct is a violation of this section:

10 (1) The false representation or implication that the debt
11 collector is vouched for, bonded by, or affiliated with the United States or
12 a state, including without limitation the use of a badge, uniform, or
13 facsimile thereof;

14 (2) The false representation of:

15 (A) The character, amount, or legal status of a debt; or

16 (B) Any services rendered or compensation that may be
17 lawfully received by a debt collector for the collection of a debt;

18 (3) The false representation or implication that an individual
19 is an attorney or that a communication is from an attorney;

20 (4) The representation or implication that nonpayment of a debt
21 will result in the arrest or imprisonment of a person or the seizure,
22 garnishment, attachment, or sale of a property or wages of a person unless
23 the action is lawful and the debt collector or creditor intends to take the
24 action;

25 (5) The threat to take an action that cannot legally be taken or
26 that is not intended to be taken;

27 (6) The false representation or implication that a sale,
28 referral, or other transfer of an interest in a debt will cause the consumer
29 to:

30 (A) Lose a claim or defense to payment of the debt; or

31 (B) Become subject to a practice prohibited by this
32 subchapter;

33 (7) The false representation or implication that the consumer
34 committed a crime or other conduct in order to disgrace the consumer;

35 (8) Communicating or threatening to communicate to a person
36 credit information that is known or that should be known to be false,

1 including without limitation the failure to communicate that a disputed debt
2 is disputed;

3 (9) The use or distribution of a written communication that
4 simulates or is falsely represented to be a document authorized, issued, or
5 approved by a court, official, or agency of the United States or a state or
6 that creates a false impression as to its source, authorization, or approval;

7 (10) The use of a false representation or deceptive means to
8 collect or attempt to collect a debt or to obtain information concerning a
9 consumer;

10 (11) The failure to disclose:

11 (A) In the initial written communication with the consumer
12 and, in addition, if the initial communication with the consumer is oral in
13 the initial oral communication, that the debt collector is attempting to
14 collect a debt and that any information obtained will be used for that
15 purpose; and

16 (B) In subsequent communications, that the communication
17 is from a debt collector, except that this subdivision (b)(11) does not apply
18 to a formal pleading made in connection with a legal action;

19 (12) The false representation or implication that accounts have
20 been turned over to innocent purchasers for value;

21 (13) The false representation or implication that documents are
22 legal process;

23 (14) The use of a business, company, or organization name other
24 than the true name of the debt collector's business, company, or
25 organization;

26 (15) The false representation or implication that documents are
27 not legal process forms or do not require action by the consumer; or

28 (16) The false representation or implication that a debt
29 collector operates or is employed by a consumer reporting agency as defined
30 by 15 U.S.C. § 1681a(f) as it existed on January 1, 2009.

31
32 17-24-507. Unfair practices.

33 (a) A debt collector may not use unfair or unconscionable means to
34 collect or attempt to collect a debt.

35 (b) Without limiting the general application of subsection (a) of this
36 section, the following actions of a debt collector violate this section:

1 (1) The collection of an amount including interest, a fee, a
2 charge, or an expense incidental to the principal obligation unless the
3 amount is expressly authorized by the agreement creating the debt or
4 permitted by law;

5 (2) The acceptance by a debt collector from a person of a check
6 or other payment instrument postdated by more than five (5) days unless the
7 person is notified in writing of the debt collector's intent to deposit the
8 check or instrument not more than ten (10) nor less than three (3) business
9 days before the deposit;

10 (3) The solicitation by a debt collector of a postdated check or
11 other postdated payment instrument for the purpose of threatening or
12 instituting criminal prosecution;

13 (4) Depositing or threatening to deposit a postdated check or
14 other postdated payment instrument before the date on the check or
15 instrument;

16 (5) Causing charges to be made to a person for communications by
17 concealment of the true purpose of the communication, including without
18 limitation charges for collect telephone calls and telegrams;

19 (6) Taking or threatening to take a nonjudicial action to effect
20 dispossession or disablement of property if:

21 (A) No present right exists to possession of the property
22 claimed as collateral through an enforceable security interest;

23 (B) No present intention exists to take possession of the
24 property; or

25 (C) The property is exempt by law from the dispossession
26 or disablement;

27 (7) Communicating with a consumer regarding a debt by postcard;
28 or

29 (8) Using a language or symbol other than the debt collector's
30 address on a envelope when communicating with a consumer by use of the mails
31 or by telegram, except that a debt collector may use his or her business name
32 if the name does not indicate that he or she is in the debt collection
33 business.

34
35 17-24-508. Validation of debts.

36 (a) At the time of the initial communication or within five (5) days

1 after the initial communication with a consumer in connection with the
2 collection of a debt, unless the consumer has paid the debt, a debt collector
3 shall send the consumer a written notice containing:

4 (1) The amount of the debt;

5 (2) The name of the creditor to whom the debt is owed;

6 (3) A statement that unless the consumer within thirty (30) days
7 after receipt of the notice disputes the validity of the debt or a portion of
8 the debt, the debt will be assumed to be valid by the debt collector;

9 (4) A statement that if the consumer notifies the debt collector
10 in writing within the thirty-day period that the debt or a portion of the
11 debt is disputed, the debt collector will obtain verification of the debt or
12 a copy of a judgment against the consumer and a copy of the verification or
13 judgment will be mailed to the consumer by the debt collector; and

14 (5) A statement that, upon the consumer's written request within
15 the thirty-day period, the debt collector will provide the consumer with the
16 name and address of the original creditor if different from the current
17 creditor.

18 (b) If the consumer notifies the debt collector in writing within the
19 thirty-day period described in subsection (a) of this section that the debt
20 or a portion of the debt is disputed or that the consumer requests the name
21 and address of the original creditor, the debt collector shall cease
22 collection of the debt or a disputed portion of the debt until the debt
23 collector obtains verification of the debt or a copy of a judgment or the
24 name and address of the original creditor, and a copy of the verification or
25 judgment or name and address of the original creditor is mailed to the
26 consumer by the debt collector.

27 (c) The failure of a consumer to dispute the validity of a debt under
28 this section is not an admission of liability by the consumer.

29
30 17-24-509. Multiple debts.

31 If a consumer owes multiple debts and makes a single payment to a debt
32 collector with respect to the debts, the debt collector may not apply the
33 payment to a debt that is disputed by the consumer and, if applicable, shall
34 apply the payment in accordance with the consumer's directions.

35
36 17-24-510. Legal actions by debt collectors.

1 (a) A debt collector who brings a legal action on a debt against a
2 consumer shall:

3 (1) For an action to enforce an interest in real property
4 securing the consumer's obligation, bring the action in the county where all
5 or part of the real property is located; or

6 (2) For an action not described in subdivision (a)(1) of this
7 section, bring the action only in the county:

8 (A) In which the consumer signed the contract sued upon;
9 or

10 (B) In which the consumer resides at the commencement of
11 the action.

12 (b) This subchapter does not create a cause of action by a debt
13 collector.

14
15 17-24-511. Furnishing certain deceptive forms.

16 (a) It is unlawful to design, compile, and furnish a form knowing that
17 the form would be used to create the false belief in a consumer that a person
18 other than the creditor of the consumer is participating in the collection of
19 or in an attempt to collect a debt the consumer allegedly owes the creditor,
20 when in fact the person is not participating in collecting or attempting to
21 collect the debt.

22 (b) A person who violates this section is liable to the same extent
23 and in the same manner as a debt collector is liable under § 17-24-512 for
24 failure to comply with this subchapter.

25
26 17-24-512. Civil liability.

27 (a) Except as otherwise provided by this section, a debt collector who
28 fails to comply with this subchapter with respect to a person is liable to
29 the person in an amount equal to the sum of:

30 (1) An actual damage sustained by the person as a result of the
31 failure;

32 (2)(A) In the case of an action by an individual, the additional
33 damages as the court may allow not exceeding one thousand dollars (\$1,000);

34 or

35 (B) In the case of a class action;

36 (i) The amount each named plaintiff could recover

1 under subdivision (a)(2)(A) of this section; and

2 (ii) The amount the court may allow for all other
3 class members without regard to a minimum individual recovery not to exceed
4 the lesser of five hundred thousand dollars (\$500,000) or one per cent (1%)
5 of the net worth of the debt collector; and

6 (3)(A) In the case of a successful action to enforce the
7 foregoing liability, the costs of the action, together with a reasonable
8 attorney's fee as determined by the court.

9 (B) If the court finds that an action under this section
10 was brought in bad faith or for the purpose of harassment, the court may
11 award to the defendant attorney's fees reasonable in relation to the work
12 expended and costs.

13 (b) In determining the amount of liability in an action under
14 subsection (a) of this section, the court shall consider among other relevant
15 factors:

16 (1) In an individual action under subsection (a)(2)(A) of this
17 section, the frequency and persistence of noncompliance by the debt
18 collector, the nature of the noncompliance, and the extent to which the
19 noncompliance was intentional; or

20 (2) In a class action under subsection (a)(2)(B) of this
21 section, the frequency and persistence of noncompliance by the debt
22 collector, the nature of the noncompliance, the resources of the debt
23 collector, the number of persons adversely affected, and the extent to which
24 the debt collector's noncompliance was intentional.

25 (c) A debt collector may not be held liable in an action brought under
26 this subchapter if the debt collector shows by a preponderance of the
27 evidence that the violation was not intentional and resulted from a bona fide
28 error notwithstanding the maintenance of procedures reasonably adapted to
29 avoid the error.

30 (d) An action to enforce a liability created by this subchapter may be
31 brought in a court of competent jurisdiction within one (1) year from the
32 date on which the violation occurs.

33 (e) A provision of this section imposing liability shall not apply to
34 an act done or omitted in good faith in conformity with an advisory opinion
35 of the Federal Trade Commission addressing appropriate conduct under the
36 Federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.,

1 notwithstanding that after the act or omission has occurred, the opinion is
 2 amended, rescinded, or determined by judicial or other authority to be
 3 invalid for a reason.

4
 5 SECTION 2. Arkansas Code § 17-24-101 is amended to read as follows:
 6 17-24-101. Definition.

7 As used in this chapter, unless the context otherwise requires,
 8 "collection agency" means any person, ~~who works with or employs one (1) or~~
 9 ~~more other persons, or any partnership, corporation, or association, limited~~
 10 liability corporation or firm which engages in the collection of delinquent
 11 accounts, bills, or other forms of indebtedness, owed or due or asserted to
 12 be owed or due to another or any person, partnership, corporation, ~~or~~
 13 association, limited liability corporation or firm using a fictitious name or
 14 any name other than their own in the collection of their own accounts
 15 receivable, or any person, partnership, corporation, ~~or~~ association, limited
 16 liability corporation or firm which solicits claims for collection or any
 17 person, partnership, corporation, association, limited liability corporation
 18 or firm that purchases and attempts to collect delinquent accounts or bills.

19
 20 SECTION 3. Arkansas Code § 17-24-102 is amended to read as follows:
 21 17-24-102. Exemptions.

22 (a) ~~The provisions of this chapter shall not be applicable~~ This
 23 chapter does not apply to:

- 24 (1) Regular employees of a single creditor;
 25 (2) Banks;
 26 (3) Trust companies;
 27 (4) Savings and loan associations;
 28 (5) Abstract companies doing an escrow business;
 29 (6) Licensed real estate brokers and agents when the claims or
 30 accounts being handled by the broker or agent are related to or in connection
 31 with the broker's or agent's regular real estate business;
 32 (7) Express and telegraph companies subject to public regulation
 33 and supervision;
 34 (8) Attorneys at law ~~handling claims and collections in their~~
 35 ~~own names and not operating a collection agency under the management of a~~
 36 layman or under names other than their own who use their own names or the

1 names of their law firms to collect or attempt to collect claims, accounts,
2 bills or other forms of indebtedness owed to them individually or as a firm;

3 ~~(9)~~(8)(A) Persons, firms, corporations, ~~or~~ associations, limited
4 liability corporations or partnerships handling claims, accounts, or
5 collections under an order of any court.

6 (B) However, child support collection agencies not
7 operating pursuant to Title IV-D of the Social Security Act are not exempt
8 from this chapter and shall be subject to licensure; and

9 ~~(10)~~(9) Any person, firm, corporation, ~~or~~ association, limited
10 liability corporation or partnership which, for a valuable consideration,
11 purchases accounts, claims, or demands of another which were not in default
12 or delinquent at the time of acquisition and then, in the purchaser's own
13 name, proceeds to assert or collect the accounts, claims, or demands.

14 (b) Nothing in § 17-24-301, § 17-24-309, § 17-24-401, or this ~~section~~
15 chapter with respect to licensure by the State Board of Collection Agencies,
16 or limitations of fees for collection services, shall include or be
17 applicable to attorneys at law licensed to practice in the State of Arkansas
18 who are engaged in rendering legal services for clients in the collection of
19 accounts, debts, or claims, nor shall § 17-24-301, § 17-24-309, § 17-24-401,
20 or this section amend or repeal in any way the exemptions set out in
21 subsection (a) of this section.

22 (c)(1) Nothing in this chapter shall include or be applicable to the
23 foreclosure of real property under the provisions of § 18-49-101 et seq. or §
24 18-50-101 et seq.

25 (2) Foreclosure of real property is not deemed to be debt
26 collection as defined in the federal Fair Debt Collections Practices Act, 15
27 U.S.C. § 1692a(6), as in existence on January 1, 2005.

28
29 SECTION 4. Arkansas Code § 17-24-103 is amended to read as follows:
30 17-24-103. Penalties.

31 (a) ~~Any person, partnership, corporation, or association~~ collection
32 agency which engages in the business activities of a collection agency
33 without a valid license issued pursuant to this chapter and any person,
34 partnership, corporation, or association who shall violate any provision of
35 this chapter shall be deemed guilty of a misdemeanor and upon conviction
36 shall be fined in any sum of not less than fifty dollars (\$50.00) nor more

1 than five hundred dollars (\$500). Each day of the violation shall constitute
2 a separate offense.

3 (b)(1) The State Board of Collection Agencies is authorized to impose
4 monetary fines as civil penalties to be paid for failure to comply with the
5 provisions of this chapter or the regulations promulgated pursuant thereto.

6 (2) Prior to the imposition of monetary fines, the board shall provide
7 notice and opportunity to be heard in accordance with hearing procedures in
8 effect for the revocation, suspension, or refusal of licensure.

9
10 SECTION 5. Arkansas Code § 17-24-104 is amended to read as follows:
11 17-24-104. Sanctions.

12 (a) ~~Any A collection agency required to be licensed under this~~
13 ~~chapter, which that~~ fails to remit to its client funds collected for the
14 client within the calendar month following the month of collection, shall not
15 be entitled to a collection fee and shall remit the total funds collected to
16 the client.

17 (b) ~~In instances where If a collection agency has failed fails to~~
18 ~~remit funds collected to its client within the calendar month following the~~
19 ~~month of collection, if the collection agency and~~ does not remit the total
20 funds collected for the client to the client within sixty-one (61) days of
21 the date of collection, the ~~collection agency's license shall be subject to~~
22 ~~suspension or revocation by the State Board of Collection Agencies may:~~

23 (1) Suspend or revoke the license of the collection agency; and

24 (2) Impose a civil penalty under § 17-24-103.

25
26 SECTION 6. Arkansas Code § 17-24-301 is amended to read as follows:
27 17-24-301. License required.

28 ~~It shall be unlawful for any person, partnership, association, or corporation~~
29 ~~to conduct within this state a collection agency or engage within this state~~
30 ~~in the business of collecting claims for others, or of soliciting the right~~
31 ~~to collect or receive payment for any other person of any claim, or~~
32 ~~advertise, either in print, by letter, in person, or otherwise, the right to~~
33 ~~collect or receive payment for another of any claim, or seek to make~~
34 ~~collection or obtain payment of any claim on behalf of another person without~~
35 ~~having first applied for and obtained a license from the State Board of~~
36 ~~Collection Agencies.~~

1 Unless licensed by the State Board of Collection Agencies under this
2 subchapter it is unlawful to:

3 (1) Engage in the collection of delinquent accounts, bills, or
4 other forms of indebtedness;

5 (2) Use a fictitious name or any name other than their own in
6 the collection of their own accounts receivable; or

7 (3) Solicit claims for collection; or

8 (4) Purchase and attempt to collect delinquent accounts or
9 bills.

10
11
12 SECTION 7. Arkansas Code § 17-24-303 is amended to read as follows:

13 17-24-303. Application – Issuance – Transferability.

14 (a) The State Board of Collection Agencies shall have the authority to
15 require an applicant for a license to submit an application in writing
16 containing such information as it shall deem necessary and pertinent and may
17 require the character and business references which it deems appropriate.

18 ~~(b) So long as a licensee's license is in full force and effect and in~~
19 ~~good standing, a licensee shall be entitled to a branch office certificate~~
20 ~~for any branch offices operated by the licensee upon the payment of the fee~~
21 ~~herein provided for the original license.~~

22 ~~(c)~~(b) Licenses issued by the board are not transferable.

23
24 SECTION 8. Arkansas Code § 17-24-305(a), concerning licensing fees of
25 the State Board of Collection Agencies, is amended to read as follows:

26 (a) The State Board of Collection Agencies may charge an annual
27 license fee not to exceed one hundred twenty-five dollars (\$125) for
28 licensing each collection agency and an annual fee of fifteen dollars
29 (\$15.00) for ~~licensing~~ registering each employee of the licensed collection
30 agency who as an employee solicits, collects, or attempts to collect any
31 delinquent account or accounts by telephone, mail, personal contact, or
32 otherwise.

33
34 SECTION 9. Arkansas Code § 17-24-306 is amended to read as follows:

35 17-24-306. Bond.

36 (a) The State Board of Collection Agencies shall require each licensee

1 to secure a surety bond in an amount not less than five thousand dollars
 2 (\$5,000) nor more than twenty-five thousand dollars (\$25,000) for each
 3 location, with the security on the bond to be approved by the board. ~~It is~~
 4 ~~the specific intent of this chapter to permit the posting of a surety bond,~~
 5 ~~certificate of deposit, or cash bond.~~

6 ~~(b) This bond shall provide that the person, partnership, association,~~
 7 ~~or corporation giving the bond shall, upon written demand, pay and turn over~~
 8 ~~to or for the person, partnership, association, or corporation from whom any~~
 9 ~~account, bill, or other indebtedness is taken for collection in accordance~~
 10 ~~with the terms of the agreement upon which it was received for collection.~~

11 ~~(e)(b)~~ The aggregate liability of the surety for all breaches of the
 12 conditions of the bond shall, in no event, exceed the amount of the bond.
 13 The surety shall have a right to cancel such bond upon giving thirty (30)
 14 days' notice to the board and thereafter shall be relieved of liability for
 15 any breach of condition occurring after the effective date of the
 16 cancellation.

17 ~~(d)(c)~~ ~~This~~ The bond shall be made payable to the State Board of
 18 Collection Agencies.

19 (d)(1) The board may promulgate ~~regulations under which it can~~ rules
 20 to:

21 (1) ~~disburse~~ Disburse bond funds to claimants~~;~~;

22 (2) If the ~~bonds~~ bond proceeds are insufficient to satisfy all
 23 legitimate claims, ~~the board shall~~ distribute the funds pro rata among the
 24 claimants~~;~~; or

25 (3) In the discretion of the board, it may require the sureties
 26 to deal directly with the claimants ~~pursuant to regulations promulgated by~~
 27 ~~the board.~~

28
 29 SECTION 10. Arkansas Code § 17-24-307(12), concerning grounds for
 30 revocation, suspension, or refusal of a license, is amended to read as
 31 follows:

32 (12) ~~No licensee shall address~~ Addressing a letter to or ~~telephone any~~
 33 telephoning a debtor at his or her place of employment unless a good-faith
 34 attempt has been made to contact the debtor at his or her usual place of
 35 abode by letter and the mail has not been returned and no answer has been
 36 received; or

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*SECTION 11. Arkansas Code § 17-24-309 is amended to read as follows:
17-24-309. Collection charges – Limits.*

(a) No ~~person, partnership, association, or corporation~~ collection agency mentioned in ~~§ 17-24-301~~ § 17-24-103 shall charge as a collection charge or fee an amount in excess of fifty percent (50%) of the total amount actually collected on all accounts ~~held by the person, partnership, association, or corporation for collection~~ for any one (1) client, nor more than fifty percent (50%) of the total amount actually collected on any one (1) account, nor shall a minimum charge in excess of one dollar (\$1.00) be made on any partially or totally collected account.

(b) All contracts providing for a greater collection charge or fee or a greater minimum charge than provided in this section entered into between any creditor in this state and any ~~person, partnership, association, or corporation~~ collection agency covered by this chapter shall be void. The creditor shall have, in addition to all other remedies now or hereafter provided by law, a cause of action to recover all amounts collected by the ~~person, partnership, association, or corporation~~ collection agency on the creditor's account or accounts.

/s/ Cash