



HOUSE OF REPRESENTATIVES
FOURTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FIRST REGULAR SESSION, 2004

PUBLIC LAW NO. 14-38

H. B. No. 14-106, HD1, SD1

AN ACT

To prohibit abusive collection tactics, set limits on communications about debt, describe and forbid fraudulent or misleading collection practices, and limit the types of charges collectors may assess consumer debtors; and for other purposes.

BE IT ENACTED BY THE FOURTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Short Title.** This Act may be cited as the “Fair Debt Collection Practices
2 Act.”

3 **Section 2. Amendment.** Division 5, Title 4 of the Commonwealth Code is amended
4 by adding a new Chapter, entitled “Debt Collection,” containing the following provisions:

5 “Section 1. Definitions. As used in this chapter:

6 (a) “Creditor” means any person who offers or extends credit creating
7 a debt or to whom a debt is owed, but such term does not include any person
8 to the extent that he receives an assignment or transfer of a debt in default
9 solely for the purpose of facilitating collection of such debt for another.

10 (b) “Debt” means any obligation or alleged obligation of a consumer
11 to pay money arising out of a transaction in which the money, property,
12 insurance or services which are the subject of the transaction are primarily for
13 personal, family, or household purposes, whether or not such obligation has
14 been reduced to judgment.

15 (c) “Debt collector” means any person who regularly collects or
16 attempts to collect, directly or indirectly, debts owed or due or asserted to be
17 owed or due another. Notwithstanding the exclusion provided by clause (6) of

1 the last sentence of this paragraph, the term includes any creditor who, in the
2 process of collecting his own debts, uses any name other than his own which
3 would indicate that a third person is collecting or attempting to collect such
4 debts. The term does not include --

5 (1) any officer or employee of a creditor while, in the name of
6 the creditor, collecting debts for such creditor;

7 (2) any person while acting as a debt collector for another
8 person, both of whom are related by common ownership or affiliated
9 by corporate control, if the person acting as a debt collector does so
10 only for persons to whom it is so related or affiliated and if the
11 principal business of such person is not the collection of debts;

12 (3) any officer or employee of the United States or any State to
13 the extent that collecting or attempting to collect any debt is in the
14 performance of his official duties;

15 (4) any person while serving or attempting to serve legal
16 process on any other person in connection with the judicial
17 enforcement of any debt;

18 (5) any nonprofit organization which, at the request of
19 consumers, performs bona fide consumer credit counseling and assists
20 consumers in the liquidation of their debts by receiving payments from
21 such consumers and distributing such amounts to creditors; and

22 (6) any person collecting or attempting to collect any debt
23 owed or due or asserted to be owed or due another to the extent such
24 activity (i) is incidental to a bona fide fiduciary obligation or a bona
25 fide escrow arrangement; (ii) concerns a debt which was originated by
26 such person; (iii) concerns a debt which was not in default at the time it
27 was obtained by such person; or (iv) concerns a debt obtained by such
28 person as a secured party in a commercial credit transaction involving
29 the creditor.

1 Section 2. Prohibited Debt Collection Practices.

2 (1) A debt collector shall not collect or attempt to collect a debt by means
3 of an illegal threat, coercion or attempt to coerce. The conduct described in each of
4 the following paragraphs is an illegal threat, coercion or attempt to coerce within the
5 meaning of this subsection:

6 (a) The use, or express or implicit threat of use, of force, violence
7 or other criminal means, to cause harm to a person or to property of a person.

8 (b) The false accusation or threat to falsely accuse a person of
9 fraud or any other crime.

10 (c) False accusations made to a person, including a credit reporting
11 agency, or the threat to falsely accuse, that a debtor is willfully refusing to pay
12 a just debt. However, a failure to reply to requests for payment and a failure to
13 negotiate disputes in good faith are deemed willful refusal.

14 (d) The threat to sell or assign to another an obligation of the
15 debtor with an attending representation or implication that the result of the sale
16 or assignment will be to subject the debtor to harsh, vindictive or abusive
17 collection attempts.

18 (e) The false threat that nonpayment of a debt may result in the
19 arrest of a person or the seizure, garnishment, attachment or sale of property or
20 wages of that person.

21 (f) An action or threat to take an action prohibited by this chapter
22 or any other law.

23 (2) A debt collector shall not oppress, harass or abuse a person in
24 connection with the collection or attempted collection of a debt of that person or
25 another person. The following conduct is oppressive, harassing or abusive within the
26 meaning of this subsection:

27 (a) The use of profane or obscene language or language that is
28 intended to abuse the hearer or reader and which by its utterance would tend to
29 incite an immediate breach of the peace.

1 (b) The placement of telephone calls to the debtor without
2 disclosure of the name of the business or company the debt collector
3 represents.

4 (c) Causing expense to a person in the form of long distance
5 telephone tolls, telegram fees or other charges incurred by a medium of
6 communication by attempting to deceive or mislead persons as to the true
7 purpose of the notice, letter, message or communication.

8 (d) Causing a telephone to ring or engaging a person in telephone
9 conversation repeatedly or continuously or at unusual hours or times known to
10 be inconvenient, with intent to annoy, harass or threaten a person.

11 (3) A debt collector shall not disseminate information relating to a debt or
12 debtor as follows:

13 (a) The communication or threat to communicate or imply the fact
14 of a debt to a person other than the debtor or a person who might reasonably
15 be expected to be liable for the debt, except with the written permission of the
16 debtor given after default. For the purposes of this paragraph, the use of
17 language on envelopes indicating that the communication relates to the
18 collection of a debt is a communication of the debt. However, this paragraph
19 does not prohibit a debt collector from any of the following:

20 (i) Notifying a debtor of the fact that the debt collector may
21 report a debt to a credit bureau or engage an agent or an attorney for
22 the purpose of collecting the debt.

23 (ii) Reporting a debt to a credit reporting agency or any
24 other person reasonably believed to have a legitimate business need for
25 the information.

26 (iii) Engaging an agent or attorney for the purpose of
27 collecting a debt.

28 (iv) Attempting to locate a debtor whom the debt collector
29 has reasonable grounds to believe has moved from the debtor's

1 residence, where the purpose of the communication is to trace the
2 debtor, and the content of the communication is restricted to requesting
3 information on the debtor's location.

4 (v) Communicating with the debtor's employer or credit
5 union not more than once during any three-month period when the
6 purpose of the communication is to obtain an employer's or credit
7 union's debt counseling services for the debtor. In the event no
8 response is received by the debt collector from a communication to the
9 debtor's employer or credit union the debt collector may make one
10 inquiry as to whether the communication was received. In addition a
11 debt collector may respond to any communications by a debtor's
12 employer or credit union.

13 (vi) Communicating with the debtor's employer once during
14 any one-month period, if the purpose of the communication is to verify
15 with an employer the fact of the debtor's employment and if the debt
16 collector does not disclose, except as permitted in subparagraph (v),
17 information other than the fact that a debt exists. This subparagraph
18 does not authorize a debt collector to disclose to an employer the fact
19 that a debt is in default.

20 (vii) Communicating the fact of the debt not more than once
21 in any three-month period, with the parents of a minor debtor, or with
22 any trustee of any property of the debtor, conservator of the debtor or
23 the debtor's property, or guardian of the debtor. In addition, a debt
24 collector may respond to inquiry from a parent, trustee, conservator or
25 guardian.

26 (viii) Communicating with the debtor's spouse with the
27 consent of the debtor, or responding to inquiry from the debtor's
28 spouse.

1 (b) The disclosure, publication, or communication of information
2 relating to a person's indebtedness to another person, by publishing or posting
3 a list of indebted persons, commonly known as "deadbeat lists", or by
4 advertising for sale a claim to enforce payment of a debt when the
5 advertisement names the debtor.

6 (c) The use of a form of communication to the debtor, except a
7 telegram, an original notice or other court process, or an envelope displaying
8 only the name and address of a debtor and the return address of the debt
9 collector, intended or so designed as to display or convey information about
10 the debt to another person other than the name, address, and phone number of
11 the debt collector.

12 (4) A debt collector shall not use a fraudulent, deceptive, or misleading
13 representation or means to collect or attempt to collect a debt or to obtain information
14 concerning debtors. The following conduct is fraudulent, deceptive, or misleading
15 within the meaning of this subsection:

16 (a) The use of a business, company or organization name while
17 engaged in the collection of debts, other than the true name of the debt
18 collector's business, company, or organization or the name of the business or
19 company the debt collector represents.

20 (b) The failure to clearly disclose in all written communications
21 made to collect or attempt to collect a debt or to obtain or attempt to obtain
22 information about a debtor, that the debt collector is attempting to collect a
23 debt and that information obtained will be used for that purpose, except where
24 disclosure would tend to embarrass the debtor.

25 (c) A false representation that the debt collector has information in
26 the debt collector's possession or something of value for the debtor, which is
27 made to solicit or discover information about the debtor.

1 (d) The failure to clearly disclose the name and full business
2 address of the person to whom the claim has been assigned at the time of
3 making a demand for money.

4 (e) An intentional misrepresentation, or a representation which
5 tends to create a false impression of the character, extent or amount of a debt,
6 or of its status in a legal proceeding.

7 (f) A false representation, or a representation which tends to create
8 a false impression, that a debt collector is vouched for, bonded by, affiliated
9 with, or an instrumentality, agency or official of the state or an agency of
10 federal, state or local government.

11 (g) The use or distribution or sale of a written communication
12 which simulates or is falsely represented to be a document authorized, issued
13 or approved by a court, an official or other legally constituted or authorized
14 authority, or which tends to create a false impression about its source,
15 authorization or approval.

16 (h) A representation that an existing obligation of the debtor may
17 be increased by the addition of attorney's fees, investigation fees, service fees
18 or other fees or charges, when in fact such fees or charges may not legally be
19 added to the existing obligation.

20 (i) A false representation, or a representation which tends to create
21 a false impression, about the status or true nature of, or services rendered by,
22 the debt collector or the debt collector's business.

23 (5) A debt collector shall not engage in the following conduct to collect or
24 attempt to collect a debt:

25 (a) The seeking or obtaining of a written statement or
26 acknowledgment in any form that specifies that a debtor's obligation is one
27 chargeable upon the property of either husband or wife or both when the
28 original obligation was not in fact so chargeable.

1 (b) The seeking or obtaining of a written statement or
2 acknowledgment in any form containing an affirmation of an obligation which
3 has been discharged in bankruptcy, without clearly disclosing the nature and
4 consequences of the affirmation and the fact that the debtor is not legally
5 obligated to make the affirmation. However, this subsection does not prohibit
6 the accepting of promises to pay that are voluntarily written and offered by a
7 bankrupt debtor.

8 (c) The collection of or the attempt to collect from the debtor a part
9 or all of the debt collector's fee for services rendered, unless both of the
10 following are applicable:

11 (i) The fee is reasonably related to the actions taken by the
12 debt collector.

13 (ii) The debt collector is legally entitled to collect the fee
14 from the debtor.

15 (d) The collection of or the attempt to collect interest or other
16 charge, fee or expense incidental to the principal obligation unless the interest
17 or incidental charge, fee, or expense is expressly authorized by the agreement
18 creating the obligation and is legally chargeable to the debtor, or is otherwise
19 legally chargeable.

20 (e) A communication with a debtor when the debt collector knows
21 that the debtor is represented by an attorney and the attorney's name and
22 address are known, or could be easily ascertained, unless the attorney fails to
23 answer correspondence, return phone calls or discuss the obligation in
24 question, within a reasonable time, or prior approval is obtained from the
25 debtor's attorney or when the communication is a response in the ordinary
26 course of business to the debtor's inquiry.

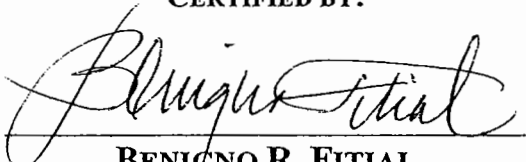
27 (6) A debt collector shall not use or distribute, sell or prepare for use, a
28 written communication that violates or fails to conform to United States postal laws
29 and regulations.”

1 **Section 3. Severability.** If any provision of this Act or the application of any such
2 provision to any person or circumstance should be held invalid by a court of competent
3 jurisdiction, the remainder of this Act or the application of its provisions to persons or
4 circumstances other than those to which it is held invalid shall not be affected thereby.

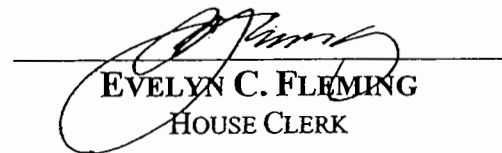
5 **Section 4. Savings Clause.** This Act and any repealer contained herein shall not be
6 construed as affecting any existing right acquired under contract or acquired under statutes
7 repealed or under any rule, regulation, or order adopted under the statutes. Repealers
8 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.
9 The enactment of this Act shall not have the effect of terminating, or in any way modifying,
10 any liability, civil or criminal, which shall already be in existence at the date this Act,
11 becomes effective.

12 **Section 5. Effective Date.** This Act shall take effect upon its approval by the
13 Governor or upon becoming law without such approval.

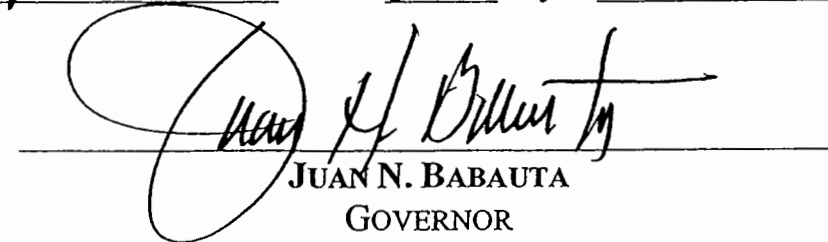
CERTIFIED BY:


BENIGNO R. FITIAL
SPEAKER OF THE HOUSE

ATTESTED TO BY:


EVELYN C. FLEMING
HOUSE CLERK

Approved on this 26th day of October, 2004


JUAN N. BABAUTA
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS