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:

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

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

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

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

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

(c) “Debt collector” means any person who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Notwithstanding the exclusion provided by clause (6) of
the last sentence of this paragraph, the term includes any creditor who, in the
process of collecting his own debts, uses any name other than his own which
would indicate that a third person is collecting or attempting to collect such
debts. The term does not include—

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

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

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

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

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

(6) any person collecting or attempting to collect any debt
owed or due or asserted to be owed or due another to the extent such
activity (i) is incidental to a bona fide fiduciary obligation or a bona
fide escrow arrangement; (ii) concerns a debt which was originated by
such person; (iii) concerns a debt which was not in default at the time it
was obtained by such person; or (iv) concerns a debt obtained by such
person as a secured party in a commercial credit transaction involving
the creditor.
Section 2. **Prohibited Debt Collection Practices.**

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

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

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

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

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

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

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

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

(a) The use of profane or obscene language or language that is intended to abuse the hearer or reader and which by its utterance would tend to incite an immediate breach of the peace.
(b) The placement of telephone calls to the debtor without disclosure of the name of the business or company the debt collector represents.

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

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

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

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

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

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

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

(iv) Attempting to locate a debtor whom the debt collector has reasonable grounds to believe has moved from the debtor's
residence, where the purpose of the communication is to trace the
debtor, and the content of the communication is restricted to requesting
information on the debtor's location.

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

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

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

(viii) Communicating with the debtor's spouse with the
consent of the debtor, or responding to inquiry from the debtor's
spouse.
(b) The disclosure, publication, or communication of information relating to a person's indebtedness to another person, by publishing or posting a list of indebted persons, commonly known as "deadbeat lists", or by advertising for sale a claim to enforce payment of a debt when the advertisement names the debtor.

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

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

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

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

(c) A false representation that the debt collector has information in the debt collector's possession or something of value for the debtor, which is made to solicit or discover information about the debtor.
(d) The failure to clearly disclose the name and full business address of the person to whom the claim has been assigned at the time of making a demand for money.

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

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

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

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

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

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

(a) The seeking or obtaining of a written statement or acknowledgment in any form that specifies that a debtor's obligation is one chargeable upon the property of either husband or wife or both when the original obligation was not in fact so chargeable.
(b) The seeking or obtaining of a written statement or acknowledgment in any form containing an affirmation of an obligation which has been discharged in bankruptcy, without clearly disclosing the nature and consequences of the affirmation and the fact that the debtor is not legally obligated to make the affirmation. However, this subsection does not prohibit the accepting of promises to pay that are voluntarily written and offered by a bankrupt debtor.

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

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

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

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

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

(6) A debt collector shall not use or distribute, sell or prepare for use, a written communication that violates or fails to conform to United States postal laws and regulations."
Section 3. **Severability.** If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

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

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

**CERTIFIED BY:**

Benigno R. Fitial  
Speaker of the House

**ATTTESTED TO BY:**

Evelyn C. Fleming  
House Clerk

Approved on this 26th day of October, 2004

Juan N. Babauta  
Governor  
Commonwealth of the Northern Marianas Islands