

**[CHAPTER 480D]**  
**COLLECTION PRACTICES**

Section

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" **[\$480D-1] Scope and purpose.** This chapter is intended to ensure that consumers are not subjected to unfair, deceptive, coercive, abusive, or harassing conduct in collection activities that are covered by this chapter. This chapter is intended to cover collection activities by debt collectors in collecting consumer debts. [L 1987, c 191, pt of §2]

" **§480D-2 Definitions.** As used in this chapter:

"Consumer debt" means any debt of a natural person incurred primarily for personal, family, or household purposes.

"Debt" means any obligation or alleged obligation of a person to pay money arising out of any transaction, whether or not the obligation has been reduced to judgment.

"Debt collector" means any person, who is not a collection agency regulated pursuant to chapter 443B, and who in the regular course of business collects or attempts to collect consumer debts owed or due or asserted to be owed or due to the collector.

"Person" means an individual, partnership, joint venture, corporation, association, business, trust, or any organized group of persons, or any combination thereof. [ L 1987, c 191, pt of §2; am L 2008, c 19, §10]

" **[\$480D-3] Prohibited practices.** It shall be a prohibited practice for any debt collector to engage in any of the following practices while collecting a consumer debt:

- (1) To threaten the use of violence or other criminal means to cause harm to the physical person, reputation, or property of any person;
- (2) To falsely accuse or threaten to falsely accuse any person of fraud or any other criminal conduct;
- (3) To make false accusations or threaten to make false accusations, to another person, including any credit reporting agency, that a debt has not been paid;
- (4) To threaten that nonpayment of a debt will result in the arrest of any person;
- (5) To threaten to turn over the collection of the debt to a person who will engage in practices prohibited by this section;
- (6) To threaten to sell or assign the debt with statements that, or implying that, the sale or assignment will cause the debtor to lose a defense or legal right as a result of the sale or assignment;
- (7) To use profane or obscene language that is intended to abuse the hearer or reader;
- (8) To disclose, publish, or communicate any false and material information relating to the indebtedness;

- (9) To represent that an existing obligation may be increased by attorney's fees, investigation fees, service fees, and other fees or charges when in fact the fees or charges may not legally be added to the existing obligations;
- (10) To seek or obtain any statement or acknowledgment that the debt was incurred for necessities of life when in fact the debt was not so incurred; or
- (11) To collect or attempt to collect any interest, charge, fee, or expense incidental to the debt unless the additions are authorized by the agreement or by law.  
[L 1987, c 191, pt of §2]

" **[\$480D-4] Enforcement.** (a) Except as provided in subsection (b), any person who engages in any practice prohibited by this chapter shall be deemed to have engaged in an unfair method of competition or unfair and deceptive acts or practices in the conduct of any trade or commerce within the meaning of section 480-2.

(b) In any case involving violations of section 480D-3(3) or (8), the debt collector shall not be subject to the provisions of subsection (a) if the debt collector can prove that the violation resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid such error. Examples of bona fide error include, but are not limited to, clerical miscalculations, computer malfunction, printing errors, and computer programming errors. If bona fide error is proven, the debt collector shall:

- (1) Correct the error as expeditiously as possible and make every reasonable effort to correct any consequences of that error; and
- (2) Be liable for any actual damages suffered by the consumer including the time and expense required to correct the error.

A court may award reasonable attorney's fees and costs incurred by the consumer in insuring that the error and its consequences are corrected. [L 1987, c 191, pt of §2]

" **[\$480D-5] Remedies not exclusive.** The remedies provided for in this chapter are in addition to and not exclusive of any other remedies provided by law. [L 1987, c 191, pt of §2]