



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3140

Introduced 2/15/2018, by Sen. Thomas Cullerton

SYNOPSIS AS INTRODUCED:

15 ILCS 205/4 from Ch. 14, par. 4
15 ILCS 205/9 new
735 ILCS 5/2-625 new

Amends the Attorney General Act. Requires the Attorney General to compile and file with the General Assembly twice a year a report containing, among other information, the number of and status of actions against debt collection agencies. Requires the Attorney General to attend and conduct specified meetings relating to debt collection practices and conferences of interested and relevant groups and associations. Amends the Code of Civil Procedure. Provides that a debt collector or collection agency that brings a legal action on a debt against any consumer shall attach specified documentation to the complaint establishing that the plaintiff is the owner of the debt. Provides that if the debt was assigned more than once, each assignment or other writing evidencing transfer of ownership must be attached to establish an unbroken chain of ownership, beginning with the original creditor to the first debt buyer and each subsequent sale. Provides that before entry of a default judgment against a consumer in an action on a debt owned by a debt buyer, the plaintiff shall file with the court specified evidence that establishes the amount and nature of the debt.

LRB100 20434 HEP 35771 b

1 AN ACT concerning debt collection.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Attorney General Act is amended by changing
5 Section 4 and by adding Section 9 as follows:

6 (15 ILCS 205/4) (from Ch. 14, par. 4)

7 Sec. 4. The duties of the Attorney General shall be--

8 First - To appear for and represent the people of the State
9 before the supreme court in all cases in which the State or the
10 people of the State are interested.

11 Second - To institute and prosecute all actions and
12 proceedings in favor of or for the use of the State, which may
13 be necessary in the execution of the duties of any State
14 officer.

15 Third - To defend all actions and proceedings against any
16 State officer, in his official capacity, in any of the courts
17 of this State or the United States.

18 Fourth - To consult with and advise the several State's
19 Attorneys in matters relating to the duties of their office;
20 and when, in his judgment, the interest of the people of the
21 State requires it, he shall attend the trial of any party
22 accused of crime, and assist in the prosecution. When the
23 Attorney General has requested in writing that a State's

1 Attorney initiate court proceedings to enforce any provisions
2 of the Election Code or to initiate a criminal prosecution with
3 respect to a violation of the Election Code, and when the
4 State's Attorney has declined in writing to initiate those
5 proceedings or prosecutions or when the State's Attorney has
6 neither initiated the proceedings or prosecutions nor
7 responded in writing to the Attorney General within 60 days of
8 the receipt of the request, the Attorney General may,
9 concurrently with or independently of the State's Attorney,
10 initiate such proceedings or prosecutions. The Attorney
11 General may investigate and prosecute any violation of the
12 Election Code at the request of the State Board of Elections or
13 a State's Attorney.

14 Fifth - To investigate alleged violations of the statutes
15 which the Attorney General has a duty to enforce and to conduct
16 other investigations in connection with assisting in the
17 prosecution of a criminal offense at the request of a State's
18 Attorney.

19 Sixth - To consult with and advise the governor and other
20 State officers, and give, when requested, written opinions upon
21 all legal or constitutional questions relating to the duties of
22 such officers respectively.

23 Seventh - To prepare, when necessary, proper drafts for
24 contracts and other writings relating to subjects in which the
25 State is interested.

26 Eighth - To give written opinions, when requested by either

1 branch of the general assembly, or any committee thereof, upon
2 constitutional or legal questions.

3 Ninth - To enforce the proper application of funds
4 appropriated to the public institutions of the State, prosecute
5 breaches of trust in the administration of such funds, and,
6 when necessary, prosecute corporations for failure or refusal
7 to make the reports required by law.

8 Tenth - To keep, a register of all cases prosecuted or
9 defended by him, in behalf of the State or its officers, and of
10 all proceedings had in relation thereto, and to deliver the
11 same to his successor in office.

12 Eleventh - To keep on file in his office a copy of the
13 official opinions issued by the Attorney General and deliver
14 same to his successor.

15 Twelfth - To pay into the State treasury all moneys
16 received by him for the use of the State.

17 Thirteenth - To attend to and perform any other duty which
18 may, from time to time, be required of him by law.

19 Fourteenth - To attend, present evidence to and prosecute
20 indictments returned by each Statewide Grand Jury.

21 Fifteenth - To give written binding and advisory public
22 access opinions as provided in Section 7 of this Act.

23 Sixteenth - To submit a biannual report and attend meetings
24 as required in Section 9 of this Act.

25 (Source: P.A. 95-699, eff. 11-9-07; 96-542, eff. 1-1-10.)

1 (15 ILCS 205/9 new)

2 Sec. 9. Debt collection agency report.

3 (a) On a biannual basis, the Attorney General shall prepare
4 a report accounting for the efficient discharge of all of the
5 responsibilities of the Attorney General arising under the
6 Collection Agency Act. In addition to any other information
7 deemed relevant by the Attorney General, the biannual report
8 shall address with specificity the following: enforcement
9 actions completed and whether those actions were appealed or
10 otherwise challenged; and the number of complaints processed
11 and details as to outcomes and resolutions of complaints. The
12 report shall include a description of any significant legal
13 filings such as amicus briefs in any court and a summary of new
14 rules or regulations, legal developments, and any significant
15 matters that need to be addressed at the request of the
16 regulated community or public. The report shall be submitted to
17 the General Assembly and published on the Attorney General's
18 website by July 1 and December 31 of each year.

19 (b) In order to facilitate information sharing, to present
20 the biannual report or similar information, and to solicit
21 information relevant to the general enforcement of the
22 Collection Agency Act, the Attorney General, or a
23 representative designated by the Attorney General, shall
24 attend meetings and conferences of interested and relevant
25 groups and associations. Upon attendance, the Attorney General
26 shall have minutes from those meetings prepared and published

1 on the Attorney General's website and made part of the next
2 biannual report. The Attorney General, or designee, shall
3 attend the following on an annual basis:

4 (1) at the invitation of the collection agency
5 industry, one local and one national association of
6 collection agencies or other collection agency trade
7 association meeting;

8 (2) at the invitation of the collection agency
9 industry, one annual meeting of other business entity
10 associations or groups that represent clients of
11 collection agencies, debt buyers, or other related trade
12 associations; and

13 (3) one annual meeting of a relevant consumer advocacy
14 association.

15 (c) The Attorney General shall host an annual public
16 meeting in January of each year, with direct notice at least
17 one month in advance to consumer advocacy groups and
18 associations and other interested parties. The Attorney
19 General shall also host an annual public meeting in July of
20 each year with direct notice at least one month in advance to
21 licensees under the Collection Agency Act, industry groups,
22 client groups, and other interested parties.

23 Section 10. The Code of Civil Procedure is amended by
24 adding Section 2-625 as follows:

1 (735 ILCS 5/2-625 new)

2 Sec. 2-625. Legal actions by collection agencies.

3 (a) A debt collector or collection agency that brings a
4 legal action on a debt owned by a debt buyer shall:

5 (1) attach the following materials to the complaint, as
6 applicable:

7 (A) a copy of the contract, account-holder
8 agreement, or other writing from the original creditor
9 or the consumer evidencing the consumer's agreement to
10 the original debt;

11 (B) in the case of a medical debt, a copy of a
12 redacted itemization of charges incurred;

13 (C) if a signed writing evidencing the original
14 debt does not exist, a copy of the document provided to
15 the consumer while the account was active,
16 demonstrating that the debt was incurred by the
17 consumer; or, for a credit card debt, the most recent
18 monthly statement recording a purchase transaction,
19 payment, or balance transfer; or

20 (D) if a claim is based on an electronic
21 transaction for which a signed writing evidencing the
22 original debt never existed, a copy of the records
23 created during the transaction evidencing the
24 consumer's agreement to the debt and recording the date
25 and terms of the transaction and information provided
26 by the consumer during the transaction; and

1 (2) attach to the compliant a copy of the assignment or
2 other writing establishing that the debt buyer is the owner
3 of the debt.

4 If the debt was assigned more than once, each assignment or
5 other writing evidencing transfer of ownership must be attached
6 to establish an unbroken chain of ownership, beginning with the
7 original creditor to the first debt buyer and each subsequent
8 sale.

9 (b) Before entry of a default judgment against a consumer
10 in an action on a debt owned by a debt buyer, the plaintiff
11 shall file with the court evidence that satisfies the
12 applicable rules of evidence or is otherwise authorized by law
13 or court rule, establishes the amount and nature of the debt,
14 and includes:

15 (1) the original account number at charge-off;

16 (2) the original creditor at charge-off;

17 (3) the amount due at charge-off or, if the balance has
18 not been charged off, an itemization of the amount claimed
19 to be owed, including the principal, interest, fees, and
20 other charges or reductions from payment made or other
21 credits;

22 (4) an itemization of post charge-off additions, if
23 any;

24 (5) as applicable:

25 (A) the date of the last payment; or

26 (B) the date of the last transaction; and

1 (6) if the account is not a revolving credit account,
2 the date the debt was incurred.

3 (c) In the absence of evidence required by this Section, an
4 affidavit does not satisfy the requirements of this Section.