


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 OCT -2 P5:11

SENATE
S. No. 1678



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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Some time in 2006, in an episode of *Payong Kapatid*, a late night interactive talk show in ABS-CBN, the program decided to focus their episode mainly on financial problems. About 60% of the calls that the show received were as regards collection agents, mainly credit card collection agents. Majority of the callers are complaining that these collection agents are very rude and disrespectful that even for a measly credit in the sum of Two Thousand Five Hundred Pesos (P2,500), these agents would go as far as calling six (6) times a day, some made even in the late hours. According to the callers, these collection agents do not even introduce themselves to the person that they are calling. In addition to these calls, these collection agents, some of whom were allegedly lawyers, went so far as sending demand letters thrice a month and threaten the debtor with a criminal case even if the case is purely civil in nature. At present, although the debtors can file a civil case for harassment or malicious prosecution against these unscrupulous individuals, they would still have to wait for a long time for their rights to be vindicated. In addition, since the rude collection agents do not usually give their real name when they call, the debtors cannot anymore file a complaint since they do not know whom they are talking to.

This bill seeks to create a regulation agency that would regulate collection agencies and also serve as a venue for consumers to air their grievances against debt collectors who will violate the code of professional conduct that will be created by the board. In addition, this bill would require collection agents to register and get a license and to file a bond before operating as such. The bond will answer for any claim against the collection agent or the collection agency.*



MIRIAM DEFENSOR SANTIAGO


* This bill was originally filed during the Thirteenth Congress, Second Regular Session.

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AN ACT
CREATING A COLLECTION AGENCY REGULATORY BOARD

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* – This Act shall be known as the “Collection Agency Regulatory Board Act of 2007.”

SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the State to maintain peace and order, and promote the general welfare by instituting regulatory mechanisms in debt collections coursed through collection agencies.

SECTION 3. *Definition of Terms.* – For purposes of this Act, the term –

- (A) “Board” means the Collection Agency Regulatory Board created by this Act;
- (B) “Business debt” means the obligation arising from a credit transaction between business or commercial enterprises for goods or services used or to be used primarily in a commercial or business enterprise and not for personal, family or household purposes;
- (C) “Collection agency” means any person who:
 - (1) Engages in any business, the purpose of which is the collection of any debts for creditors;
 - (2) Regularly collects or attempts to collect for creditors, directly or indirectly, debts owed or due or asserted to be owed or due another;
 - (3) Takes assignment of debts for the purpose of collecting such debts;
 - (4) Directly or indirectly, solicits for collection debts owed or due or asserted to be owed or due a creditor;

- 1 (5) Uses a fictitious name or any name other than their own name in the collection
2 of their own accounts receivable; or
- 3 (6) Collects debts incurred in this country from debtors located in this country by
4 means of intra-country communications, including telephone, mail or
5 facsimile or any other electronic method, from the debt collector's location in
6 the Philippines.
- 7 (D) "Communication" means conveying information regarding a debt in written or oral
8 form, directly or indirectly, to any person through any medium;
- 9 (E) "Consumer" means any natural person obligated or allegedly obligated to pay any
10 debt;
- 11 (F) "Creditor" means any person who offers or extends credit creating a debt or to whom
12 a debt is owed, but "creditor" does not include:
- 13 (1) Any person or collection agency, to the extent that the person or agency
14 receives an assignment or transfer of a debt in default solely for the purpose of
15 facilitating collection of the debt for another; or
- 16 (2) Any person whose principal office is located outside the Philippines and who
17 only maintains a branch or satellite office in the country.
- 18 (G) "Debt" means any obligation or alleged obligation of a consumer to pay money
19 arising out of a transaction in which the money, property, insurance or services which
20 are the subject of the transaction are primarily for personal, family or household
21 purposes, whether or not the obligation has been reduced to judgment;
- 22 (H) "Debt collector" means any person employed or engaged by a collection agency to
23 perform the collection of debts owed or due or asserted to be owed or due to another,
24 including any owner or shareholder of the collection agency business who engages in
25 the collection of debts;
- 26 (I) "Location information" means a consumer's place of abode and his telephone number
27 at that place or his place of employment;

1 (J) "Revocation" means withdrawal or termination of the license and authority to conduct
2 a collection agency in this country, and disqualification to renew the license,
3 permanently or for an indefinite period of time;

4 (K) "Collection Agent" means any person employed or engaged by a collection agency,
5 including an owner or shareholder of the agency, who solicits or attempts to solicit
6 debts, accounts, notes or other evidence of indebtedness for collection by the person
7 or any other person; and

8 (L) "Suspension" means withdrawal or termination of the license and authority to
9 conduct a collection agency, and disqualification to renew the license, for a period not
10 to exceed one (1) year;

11 SECTION 4. *Exceptions.* – The term "collection agency" does not include:

12 (A) Any officer or employee of a creditor while collecting debts for and in the name of
13 the creditor;

14 (B) Any officer or employee of the Philippine Government, to the extent that collecting
15 or attempting to collect a debt is in the performance of his official duties;

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

18 (D) Any person whose principal business is the making of loans or the servicing of debt,
19 and who acts as a loan correspondent, seller or servicing agent for the owner or holder
20 of a debt which is secured by a mortgage on real property, whether or not the debt is
21 also secured by an interest in personal property;

22 (E) Any person whose collection activities are carried on in the true name of the creditor,
23 and are confined to the operation of a business other than a collection agency,
24 including but not limited to banks, trust companies, savings and loan associations,
25 abstract companies doing an escrow business, insurance companies, credit unions or
26 loan or finance companies;

27 (F) Any person engaged solely in the collection of one (1) or more business debts; or

28 (G) Any lawyer acting in an attorney-client relationship with the creditor, and who
29 conducts the collection in the true name of the client, provided, that any lawyer or

1 law firm contracting with banks or credit card corporations principally for debt
2 collection is still considered as a collection agency in this Act.

3 SECTION 5. *Licenses Required.* – No person shall conduct a collection agency or act as
4 a debt collector or collection agent without first having obtained a license as provided in this Act,
5 except that a debt collector or collection agent acting in the course of his employment for a
6 licensed collection agency is not required to have an individual license.

7 SECTION 6. *Collection Agency Board Created; Membership; Appointment; Term;*
8 *Qualifications; Chairperson.* –

9 (A) The Collection Agency Board is created. The Board shall consist of three (3)
10 members appointed by the President of the Philippines. One (1) member shall be a lawyer who is
11 recommended by the Integrated Bar of the Philippines. One (1) shall be an officer, partner,
12 owner or resident manager of a banking or financial institution, who is not a lawyer and
13 nominated by the Bangko Sentral ng Pilipinas. One (1) shall be a member of the public at large
14 who is neither an lawyer nor affiliated with a collection agency, but who is or has been a user of
15 credit or collection services and nominated by any major consumer group. Commencing in
16 2006, members of the Board shall be appointed for a term of four (4) years. Members of the
17 Board shall serve until their successors are duly appointed and qualified.

18 (B) No person shall be appointed as a member of the board who has not been a bona fide
19 resident of the Philippines for at least five (5) years immediately prior to his appointment. The
20 lawyer and the officer, partner, owner or resident manager of a banking or financial institution
21 shall have been engaged in the banking or financial business within the Philippines for a period
22 of five (5) years immediately prior to appointment. The member of the public at large shall have
23 at least five (5) years experience as a user of credit or collection services.

24 (C) Upon the death, resignation or removal of any member of the board, the governor
25 shall appoint a member to serve the remaining unexpired term. Any member of the Board may
26 be removed by the president for cause.

27 (D) Members of the Board shall elect one (1) of their members Chairperson to serve for a
28 term of two (2) years.

1 SECTION 7. *Collection Agency Board; Compensation, Per Diem and Travel Expense.* –

2 All members of the collection agency Board shall be paid salary, per diem and travel expenses in
3 the same manner and amount as members of the Monetary Board when attending any regular or
4 called meeting of the board. Salaries, per diem and travel expenses for all board members shall
5 be paid solely from the account containing the license fees established and payable under this
6 Act.

7 SECTION 8. *Powers and duties of Collection Agency Board.* –

8 (A) The Board shall assist and advise the chairman, who shall have charge of the
9 administration of this act. All applications for licenses under this Act shall be referred by the
10 Chairperson to the Board for consideration. The Board shall investigate the qualifications of the
11 applicant. If the board finds the applicant fails to meet the required qualifications, the Board shall
12 reject the application; otherwise the application shall be approved and a license issued on
13 payment of license fees and filing of a bond as required by this act.

14 (B) The Board shall refuse to issue or renew a license:

- 15 (1) If an individual applicant or licensee is not an adult;
- 16 (2) If an applicant or licensee is not authorized to do business in the Philippines;
- 17 (3) If the licensee does not have an established office in the Philippines with a
18 bona fide resident of the Philippines as a resident manager, or in the case of an
19 applicant, the application does not disclose the proposed office location in the
20 Philippines and the name of the proposed resident manager;
- 21 (4) If an applicant, or an owner, officer, director, partner or resident manager of
22 an applicant or licensee:
- 23 (a) Knowingly made a false statement of a material fact in any application
24 for a collection agency license or renewal thereof, or in any
25 documentation provided to support the application or renewal;
- 26 (b) Has had a license to conduct a collection agency denied, not renewed,
27 suspended or revoked for any reason other than the nonpayment of
28 licensing fees or failure to meet bonding requirements;

- 1 (c) Has been convicted in any court of a felony involving forgery,
2 malversation, obtaining money under false pretenses, theft, extortion,
3 fraud or conspiracy to commit fraud and other similar offenses;
- 4 (d) Has had a judgment entered against him in any civil action involving
5 forgery, malversation, obtaining money under false pretenses, theft,
6 extortion, fraud or conspiracy to commit fraud and other similar
7 offenses;
- 8 (e) Has failed to pay or satisfy any judgment debt or penalty imposed by
9 any court; or
- 10 (f) Has knowingly failed to comply with or violated any provision of this
11 Act or the rules and regulations of the Board adopted pursuant to this
12 Act.

13 SECTION 9. *Authority to Make Rules and Regulations; Violations; Penalties.* – The
14 Board shall make reasonable rules and regulations for the administration of this Act, and for
15 prescribing acceptable professional standards of conduct of licensees within six (6) months from
16 the time that the Board is constituted with special emphasis on rules against debtor harassment.
17 Any violation of the rules and regulations of the board shall be grounds for the imposition of a
18 civil penalty not to exceed Fifty Thousand Pesos (₱50,000.00) or suspension, revocation or
19 refusal to renew any license issued under this act, or any combination thereof.

20 SECTION 10. *Application for License; Qualifications; Financial Statement.* –

21 (A) A person desiring to conduct a collection agency business shall apply in writing on
22 forms approved by the Board. The application shall be signed and verified by the applicant and
23 filed in the office of the board. The application shall state:

- 24 (1) The name and place of residence of the person making the application;
- 25 (2) Whether the business is organized as a corporation, partnership or sole
26 proprietorship;
- 27 (3) The name or names under which the business will be conducted;
- 28 (4) The street address of the office where the business will be conducted;

1 (5) The name of the person who will be the resident manager of the office;

2 (6) Other information as the Board may require to determine the qualifications of
3 the applicant and the resident manager to be licensed to conduct a collection
4 agency business.

5 (B) The application shall be accompanied by a financial statement of the applicant,
6 showing the applicant to be financially sound.

7 (C) All applicants shall have an established office in the Philippines with a bona fide
8 resident of the Philippines as a resident manager of the office. All resident managers shall pass
9 an examination as prescribed by the board to determine the fitness of the resident manager to
10 conduct a collection agency business.

11 (D) The Board may collect an examination fee not to exceed Five Thousand Pesos
12 (₱5,000.00) for each examination given. The board shall establish by rule the amount and
13 method of payment of the examination fee. All fees collected shall be credited to the account
14 and used as provided by this Act.

15 SECTION 11. *Bond Required for License; Terms, Conditions and Execution; Amount;*
16 *Notice to Surety; New Bond. —*

17 (A) The applicant shall be notified when the application is approved. Within twenty (20)
18 days after notification, the applicant shall file and thereafter maintain a deposit with the
19 government treasurer or a bond as required by this Act. The license shall be issued upon
20 approval of the bond by the Board. The bond shall be issued by a surety company licensed and
21 authorized to do business in the Philippines, in the sum of Five Hundred Thousand Pesos
22 (₱500,000.00) and shall go to the Philippines and to any party who may be a claimant. The bond
23 shall be executed and acknowledged by the applicant as principal. The applicant may satisfy the
24 bond requirement of this section by depositing with the government treasurer Five Hundred
25 Thousand Pesos (₱500,000.00) cash.

26 (B) The bond shall be conditioned that the principal, as a licensee under this act, shall pay
27 and turn over to or for the use of any claimant from whom any debt is taken or received for
28 collection, the proceeds of such collection less the charges for collection in accordance with the
29 terms of the agreement made between the principal and the claimant.

1 (C) The bond shall cover all debts placed with the licensee for collection. Any claim
2 under the bond shall be presented to the Board. The Board shall promptly notify the surety. If
3 the surety fails to pay or settle the claim within thirty (30) days after notice from the Board, the
4 claimant may bring suit on the bond in the claimant's own name. The aggregate liability of the
5 surety for any and all claims which may arise under the bond shall in no event exceed the amount
6 of the penalty of the bond.

7 (D) A licensee may file a new bond with the board at any time. A surety company may
8 file with the board notice of its withdrawal as surety of any licensee. Upon the filing of a new
9 bond or a notice of withdrawal, the liability of the former surety for all future acts of the licensee
10 shall terminate except as provided in this Act.

11 (E) Upon filing notice with the Board by any surety company of its withdrawal as the
12 surety of any licensee, or upon the revocation by the insurance commissioner of the authority of
13 any surety company to transact business in this state, the Board shall immediately give notice to
14 the licensee of the withdrawal or revocation. Within thirty (30) days from the date of notification
15 the licensee shall file a new bond with the board. If a licensee fails to file a new bond
16 satisfactory to the Board within the time allowed, the right of the licensee to conduct a collection
17 agency shall terminate.

18 SECTION 12. *Bond of Agency; Limitation of Actions.* – No action shall be brought upon
19 any bond required to be given under this act after the expiration of two (2) years from the
20 revocation or expiration of the license issued to the licensee and principal under the bond.
21 Except for any action commenced upon the bond prior to expiration of the two (2) year period,
22 all liability of the surety upon the bond shall cease on the expiration date.

23 SECTION 13. *License; Renewals; Fee; License Nontransferable; Display.* –

24 (A) Fees for the licensing of collection agencies shall be set by the Board. All fees shall
25 be established in accordance with this Act. Each office or place of business shall be licensed
26 separately.

1 (B) Each collection agency license expires one (1) year from the date of issuance. A
2 collection agency license is not transferable. Each collection agency license shall be displayed in
3 a conspicuous place in licensee's place of business.

4 SECTION 14. *Disposition of Fees.* – All fees and money received and collected by the
5 Board shall be deposited with the government treasurer, who shall credit the money to a separate
6 account. All monies paid into the government treasury and credited to the account are
7 appropriated to the use of the collection agency board for the payment of all necessary expenses
8 incurred in administering this act, including the payment of per diem, salary and travel expense
9 to members of the board.

10 SECTION 15. *Action upon Complaints; Records of Proceedings.* –

11 (A) Any interested person may file a verified written complaint charging any collection
12 agency licensee with the violation of this Act or the rules adopted by the board, or with conduct
13 that shows the licensee is unworthy to continue to operate a collection agency within this state.
14 The complaint shall be filed with the Board, which shall investigate the complaint if necessary or
15 refer the complaint to appropriate staff for investigation and referral back to the board for proper
16 disposition.

17 (B) The Board, on its own motion, may make, or cause to be made, an investigation of
18 the conduct of any licensee. As a part of an investigation, the board may audit the books and
19 accounts of a licensee. The audit may be conducted by an auditor from the government of audit
20 or by a certified public accountant contracted by the Board.

21 (C) For the purpose of an investigation or for hearing a complaint, the Board may hold a
22 hearing in accordance with the Rules of Court. The hearing may be conducted by a hearing
23 examiner. The Chairman may subpoena witnesses and books, records and documents relative to
24 the inquiry. Witnesses may be required to testify under oath. If the Board finds the licensee has
25 violated the provisions of this Act or the rules promulgated by the Board, the licensee may be
26 sanctioned by a civil penalty not to exceed Fifty Thousand Pesos (₱50,000.00) or refusal to
27 renew, suspension or revocation of his license or any combination thereof. Any civil penalties

1 collected pursuant to this section shall be paid to the state treasurer and credited as provided in
2 this Act.

3 (D) A copy of the complaint and a complete record of the investigation and the
4 disposition made shall be retained by the board in the office of the Board.

5 SECTION 16. *Records of License and Bond Actions; Confidentiality.* –

6 (A) The Board shall keep a record of all applications for licenses and all bonds filed. The
7 record shall state whether or not a license has been issued under the application and bond. If a
8 bond is withdrawn, replaced or revoked, or the license to operate a collection agency is
9 temporarily terminated because of the failure of the surety on the bond, the facts shall be
10 reflected in the record with the date of filing any order of suspension, revocation or
11 reinstatement. The application form and bond, and records relating thereto shall be open for
12 inspection as a public record in the office of the Board.

13 (B) Financial statements, credit reports and other financial information required by the
14 board in support of a license application or in an investigation, and unresolved complaints or
15 complaints found to be without merit are confidential and are not subject to inspection as a
16 public record.

17 SECTION 17. *Furnishing or Advertising Legal Services; Scope of Authority to Solicit,*
18 *Acquire or Collect Claims.* – No licensee, under the terms of this act, shall render legal services
19 or advertise directly or indirectly, that it will render legal services, but any licensee can solicit
20 claims exclusively for the purpose of collection, take assignments thereof for the purpose of
21 collection by suit or otherwise, and for such purpose, shall be deemed to be the real party in
22 interest in any suit brought upon such assigned claim.

23 SECTION 18. *Prohibited Acts; Penalty for Violations; Injunctive Relief.* –

24 (A) In addition to other penalties, any person who carries on the business of a collection
25 agency without first having obtained a license, or who carries on a collection agency business
26 after the termination, suspension, revocation or expiration of a license, shall, upon conviction be
27 fined not less than Five Thousand Pesos (₱5,000.00) nor more than Two Hundred Thousand
28 Pesos (₱200,000.00), or imprisonment for not more than six (6) months, or both.

1 (B) When it appears to the board that any person is violating any of the provisions of this
2 act, the Board may, in its own name, bring an action in a court of competent jurisdiction for an
3 injunction, and courts of this state may enjoin any person from violating this act regardless of
4 whether proceedings have been or may be instituted before the Board or whether proceedings
5 have been or may be instituted under subsection (a) of this section. The proceedings shall be
6 prosecuted by the city prosecutor, or if approved by the Board, by a private counsel engaged by
7 the Board.

8 SECTION 19. *Prosecution of Violations.* – The city prosecutor shall prosecute all
9 violations of this Act occurring within his district.

10 SECTION 20. *Separability Clause.* – If any provision or part hereof, is held invalid or
11 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
12 valid and subsisting.

13 SECTION 21. *Repealing Clause.* – Any law, presidential decree or issuance, executive
14 order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent
15 with the provisions of this Act is hereby repealed, modified or amended accordingly.

16 SECTION 22. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
17 publication in at least two (2) newspapers of general circulation.

18 Approved,