



## Ohio Revised Code

### Section 1321.45 Prohibited short-term loan debt collection practices.

Effective: September 1, 2008

Legislation: House Bill 545 - 127th General Assembly

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(A) As used in this section:

(1) "Debt collector" means a licensee, officer, employee, or agent of a licensee, or any person acting as a debt collector for a licensee, or any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt resulting from a short-term loan made by a licensee.

(2) "Borrower" means a person who has an outstanding or delinquent short-term loan. For the purpose of this section, the term "borrower" includes the borrower's spouse, parent, if the borrower is a minor, guardian, executor, or administrator.

(3) "Communication" means the conveying of information regarding a debt directly or indirectly to any person through any medium.

(4) "Consumer reporting agency" means any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties and that uses any means or facility for the purpose of preparing or furnishing consumer reports.

(5) "Location information" means a consumer's residence, telephone number, or place of employment.

(B) When communicating with any person other than the borrower for the purpose of acquiring location information about the borrower, the debt collector shall identify self, state that the purpose for the communication is to confirm or correct location information concerning a person, and, only if expressly requested, identify the debt collector's employer. The debt collector shall not do any of the following:



- (1) State that the person for whom location information is being sought is a borrower or owes any debt;
  - (2) Communicate with any person more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information;
  - (3) Communicate by post card;
  - (4) Use any language or symbol on any envelope or in the contents of any communication effected by the mails or telegram that indicates that the communication relates to the collection of a debt;
  - (5) After the debt collector knows the borrower is represented by an attorney with regard to the subject debt and has knowledge of, or can readily ascertain, such attorney's name and address, not communicate with any person other than that attorney, unless the attorney fails to respond within a reasonable period of time to communication from the debt collector.
- (C) A debt collector, without the prior consent of the borrower given directly to the debt collector or without the express permission of a court of competent jurisdiction, may not communicate with a borrower in connection with the collection of any debt:
- (1) At any unusual time or place or a time or place known or which should be known to be inconvenient to the borrower. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a borrower is after eight a.m. eastern standard time and before nine p.m. eastern standard time at the borrower's location.
  - (2) If the debt collector knows the borrower is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the borrower;
  - (3) At the borrower's place of employment if the debt collector knows or has reason to know that the



borrower's employer prohibits the borrower from receiving such communication.

(D) A debt collector, when communicating with a third party without the prior consent of the borrower given directly to the debt collector, or without the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy, may not communicate, in connection with the collection of any debt, with any person other than the borrower, the borrower's attorney, a consumer reporting agency if otherwise permitted by law, or the attorney of the debt collector.

(E) If a borrower provides written notification, to a person licensed under section 1321.35 to 1321.48 of the Revised Code or a debt collector, that the borrower refuses to pay a debt or that the borrower wishes the debt collector to cease further communication with the borrower, the debt collector shall not communicate further with the borrower with respect to such debt, except:

- (1) To advise the borrower that the debt collector's further efforts are being terminated;
- (2) To notify the borrower that the debt collector or licensee may invoke specified remedies that are ordinarily invoked by such debt collector or licensee;
- (3) Where applicable, to notify the borrower that the debt collector or licensee intends to invoke a specified remedy. If such notice from the borrower is made by mail, notification shall be complete upon receipt.

(F) A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt, including, but not limited to, any of the following:

- (1) Using or threatening to use violence or other criminal means to harm the physical person, reputation, or property of any person;
- (2) Using obscene or profane language or language the natural consequence of which is to abuse the hearer or reader;



(3) Publication of a list of borrowers who allegedly refuse to pay debts, except to a consumer-reporting agency;

(4) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

(G) A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt, including, but not limited to, any of the following:

(1) Falsely representing or implying that the debt collector is vouched for, bonded by, or affiliated with the United States or any state, including the use of any badge, uniform, or facsimile thereof;

(2) Falsely representing the character, amount, or legal status of any debt, or any services rendered, or compensation which may be lawfully received by any debt collector for the collection of a debt;

(3) Falsely representing or implying that any individual is an attorney or that any communication is from an attorney;

(4) Representing or implying that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector intends to take such action;

(5) Threatening to take any action that cannot legally be taken or that is not intended to be taken;

(6) Falsely representing or implying that a sale, referral, or other transfer of any interest in a debt shall cause the borrower to lose any claim or defense to payment of the debt;

(7) Falsely representing or implying that the borrower committed any crime or other conduct in order to disgrace the borrower;

(8) Communicating or threatening to communicate to any person credit information that is known or that should be known to be false, including the failure to communicate that a disputed debt is disputed;



- (9) Using or distributing any written communication that simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any state, or that creates a false impression as to its source, authorization, or approval;
- (10) Using any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a borrower;
- (11) Failing to disclose in the initial written communication with the borrower, and in addition, if the initial communication with the borrower is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that division (G)(11) of this section shall not apply to a formal pleading made in connection with a legal action;
- (12) Falsely representing or implying that accounts have been turned over to innocent purchasers for value;
- (13) Falsely representing or implying that documents are legal process;
- (14) Using any business, company, or organization name other than the true name of the debt collector's business, company, or organization;
- (15) Falsely representing or implying that documents are not legal process forms or do not require action by the consumer;
- (16) Falsely representing or implying that a debt collector operates or is employed by a consumer reporting agency.
- (H) A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt, including, but not limited to, any of the following:
- (1) Collecting any amount, including any interest, fee, charge, or expense incidental to the principal



obligation, unless the amount is expressly authorized by the agreement creating the debt or permitted by law;

(2) Accepting from any person a check or other payment instrument postdated by more than five days unless the person is notified in writing of the debt collector's intent to deposit the check or instrument not more than ten nor less than three business days prior to deposit;

(3) Soliciting any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution;

(4) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on the check or instrument;

(5) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. The charges include, but are not limited to, collect telephone calls and telegram fees;

(6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if there is no present right to possession of the property claimed as collateral through an enforceable security interest, there is no present intention to take possession of the property, or the property is exempt by law from dispossession or disablement;

(7) Communicating with a borrower regarding a debt by post card;

(8) Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a borrower by use of the mails or by telegram, except that a debt collector may use the collector's business name if the name does not indicate that the collector is in the debt collection business;

(9) Designing, compiling, and furnishing any form knowing that the form would be used to create the false belief in a borrower that a person other than the licensee is participating in the collection of or in an attempt to collect a debt the borrower allegedly owes the creditor, when in fact the person is not so participating.



(I) In addition to the requirements of this section, a debt collector shall follow the practices set forth in the federal "Fair Debt Collection Practices Act," 91 Stat. 874 (1977), sections 15 U.S.C. 1692b, 15 U.S.C. 1692c, 15 U.S.C. 1692d, 15 U.S.C. 1692e, and 15 U.S.C. 1692f, as those sections of federal law exist on the effective date of this section. In the event of a conflict between described practices in the federal act and described practices in this section, this section shall prevail.